System Officer

OFFICE OF THE DISTRICT JUDGE, PRAYAGRAJ.

ADMIN. ORDER NO. 72 **Dated: January 31 ,2026**

ORDER

While enclosing herewith a pdf copy of **judgement dt. 12.08.2025** passed by **Hon'ble High Court in Application u/s 482 No. 1808 of 2025- Sudhir Kumar Goyal & Anr. Vs. State of U.P. & 2 Others.**, vide Hon'ble High Court's Letter No. **1293/Admin. G-II / Allahabad Dated 30.01.2026**, it has been communicated that during the course of hearing of aforesaid case, Hon'ble Court, vide order dated 12.08.2025, has taken note of such **Special Acts** under which there is a procedure to file a complaint before the **jurisdictional magistrate** by the competent person or the authorized officer by the department and such Special Acts which contains the provision for registration of FIR by police. Accordingly, Hon'ble Court has issued following directions, in the matter:'

"……

All the learned District Judges to sensitize the learned Judges of the district not to take cognizance on the police report filed in contravention of the provisions of Special Acts referred herein above, or otherwise where there is a specific bar for a court to take cognizance of any offence under the Special Acts except on a complaint made by the officer authorized and/or any person competent to file a complaint before the jurisdictional Magistrate in a manner prescribed by the respective Special Acts. The learned Judges are further required to sensitize that registration of FIR as a serious repercussion in criminal jurisprudence, if the illegality with respect to impermissiblity of registration of FIR is checked at initial stage (within 24 hours of its registration), it would save lot of resources and time of the High Court besides harassment to the aggrieved person."

In view of the above, instruction to communicate the pdf copy of **Order/judgement dated 12.08.2025** passed by the **Hon'ble High Court** in the aforementioned Application u/s 482 to all the Judicial Officers of the Judgeship for information and strict compliance of the same by all concerned, in letter and spirit, has been provided.

II. In compliance of Hon'ble Court's above directions, following order is being passed with immediate effect:

(a) The System Officer is directed to provide a soft/pdf copy of **Order/judgement dated 12.08.2025** passed by the **Hon'ble High Court** in the aforementioned Application u/s 482 as well as Hon'ble High Court's Letter No.**1293/Admin.G-II/ Allahabad Dated 30.01.2026** to all the Judicial Officers of Judgeship for information & strict compliance in letter & spirit.

(b) A hard-copy of above mentioned Order dated **12.08.2025** passed by the **Hon'ble High Court** in the aforementioned

Application u/s 482 as well as Hon'ble High Court's Letter No. **1293/Admin.G-II/ Allahabad Dated 30.01.2026** be also circulated among all the Judicial Officers working under control of undersigned for information & strict compliance in letter & spirit.

(c) In compliance of order/judgement dated 12.08.2025 passed by Hon'ble High Court in Crl. Misc. Application u/s 528 BNSS No. 6400 of 2025 titled Smt. Bacchi Devi Vs State of UP And Another, a meeting of all Judicial Officers of the Judgeship is convened on **02.02.2026** at **4.35 PM**, in the **Meeting Hall,** situated at the II-Floor of Newly constructed 24-Court Room Building of District Court Prayagraj for discussion and deliberation regarding compliance of **judgement dated 12.08.2025** passed by **Hon'ble High Court in Application U/s 482 No. 1808 of 2025- Sudhir Kumar Goyal & Anr. Vs. State of U.P. and 2 Others** All the Judicial Officers of the Judgeship are directed to participate in the said meeting.

Inform all concerned for strict compliance.

31.1.2026

(**Satya Prakash Tripathi**)
District & Sessions Judge
Prayagraj.

Dated : January 31 ,2026

HIGH COURT AT ALLAHABAD

Through e-mail

From,

Manjeet Singh Sheoran, HJS
Registrar General
High Court of Judicature at,
Allahabad

To,

All the District and Sessions Judges/OSD
All the Principal Judges, Family Courts
All the Presiding Officers of Commercial Courts, MACTs & LARRAs
State of Uttar Pradesh

No. 1293 **/Admin G-II** **Dated** 30/01 **/2026**

Sub: Compliance of the order dated 12.08.2025 passed by this Hon'ble Court in Application u/s 482 no. 1808 of 2025, Sudhir Kumar Goyal & Anr. Vs State of U.P. and 2 Others

Madam/Sir,

During the course of hearing of aforesaid case, Hon'ble Court, vide order dated **12.08.2025 (pdf copy enclosed),** has taken note of such Special Acts under which **there is a procedure to file a complaint before the jurisdictional magistrate by the competent person or the authorized officer by the department** and such Special Acts **which contains the provision for registration of FIR by police.** Accordingly, Hon'ble Court has issued following directions, in the matter:-

> ***"All the learned District Judges to sensitize the learned Judges of the district not to take cognizance on the police report filed in contravention of the provisions of Special Acts referred herein above, or otherwise where there is a specific bar for a court to take cognizance of any offence under the Special Acts except on a complaint made by the officer authorized and/or any person competent to file a complaint before the jurisdictional Magistrate in a manner prescribed by the respective Special Acts. The learned Judges are further required to sensitize that registration of FIR as a serious repercussion in criminal jurisprudence, if the illegality with respect to impermissiblity of registration of FIR is checked at initial stage (within 24 hours of its registration), it would save lot of resources and time of the High Court besides harassment to the aggrieved person."***

In this regard, I am directed by Hon'ble Court to send the pdf copy of the aforesaid order dated **12.08.2025** passed by Hon'ble Court to your goodself for onward circulation of the same amongst all the Judicial Officers of your judgeship for their information and strict compliance.

Encl:- As above

With Regards,

Yours faithfully,

30.1.26

Registrar General

No. **/Admin G-II** **Dated** **/2026**

copy to **The Director, Judicial Training and Research Institute,** U.P., Lucknow for information.

Registrar General

Neutral Citation No. - 2025:AHC:136716

Reserved

AFR

Court No. - 29

Case: - APPLICATION U/S 482 No. - 1808 of 2025

Applicant: - Sudhir Kumar Goyal & Anr.

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Rajesh Kumar Mishra, Vimlendu Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Vimlendu Tripathi, learned counsel for the applicants, Shri Kuldeep Singh Chauhan, learned A.G.A. for the State, and perused the material available on record.

2. The applicant has challenged the impugned order of framing charge dated 18.7.2024 and cognizance order dated 3.6.2024, passed in Criminal Case No. 6627 of 2024, titled as State v. Sudhir Kumar Goyal and another, arising out of Case Crime No.18 of 2024, under Sections 420, 406 IPC and Section 138 of the Negotiable Instruments Act, 1881, registered at P.S. Kotwali Dehat, District Bulandshahr, which is pending trial before the learned Chief Judicial Magistrate, Bulandshahr.

3. The brief facts of the case are that the informant booked two plots in Radhika Enclave, Meerut Road, Bulandshahr, in January and April 2023, making total payments of Rs.30,33,100/- through cash and cheques issued in favour of Mr. Jai Prakash, and handed over the said cheques to the applicant Sudhir Kumar Goyal. However, instead of executing the sale deed, the applicant allegedly sold the plots to the third party without knowledge and consent of the complainant. Upon cancellation of the bookings, the applicant issued four refund cheques in favour of the complainant, all of which were dishonoured, on presentation. Thereafter, pursuant to a complaint filed by the opposite

party no.2/complainant, the aforesaid FIR has been registered against the applicant under section 138 of N.I. Act- besides other sections of IPC.

4. After registration of FIR, the Investigating Officer conducted a detailed investigation and submitted a charge-sheet against the applicant under Sections 420, 406 IPC, read with Section 138 of N.I. Act. Upon submission of the charge-sheet, the learned Magistrate took cognizance of the offences and issued summon to the applicant by impugned order dated 03.06.2024. Thereafter, by impugned order dated 18.07.2024, the learned trial court, having found sufficient grounds, proceeded to frame charges against the applicant for the aforesaid offences.

5. Shri Vimlendu Tripathi, learned counsel for the applicant submits that the registration of the First Information Report and the consequential proceedings initiated by the police, followed by cognizance order, passed by the Magistrate, are in clear violation of the mandate of Section 142 of the N.I. Act. It is submitted that Section 142 of the N.I. Act prescribes a specific procedure for initiation of proceedings under Section 138 of the N.I. Act, wherein it is categorically provided that no court shall take cognizance of any offence punishable under Section 138 of the N.I. Act except upon a written complaint made by the payee or the holder of the cheque before the Magistrate. Section 142 of N.I. Act is reproduced hereinbelow for ready reference:

> "*142. Cognizance of offences-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)*
>
> *(a) No Court shall take cognizance of any offence punishable under Section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque."*

6. It is further submitted that the entire proceedings arising out of the prosecution case are barred by the provisions of Section 142(a) of the N.I. Act, 1881. In support of this contention, learned counsel for

the applicant has placed reliance on the judgment of the Supreme Court passed in ***N. Harihara Krishnan v. J. Thomas*** [1]. An excerpt from the said judgment, relevant to the present context, has been reproduced below for ready reference:

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> *"By the nature of the offence under Section 138 of the Act, the first ingredient constituting the offence is the fact that a person drew a cheque. The identity of the drawer of the cheque is necessarily required to be known to the complainant (payee) and needs investigation and would not normally be in dispute unless the person who is alleged to have drawn a cheque disputes that very fact. The other facts required to be proved for securing the punishment of the person who drew a cheque that eventually got dishonoured is that the payee of the cheque did in fact comply with each one of the steps contemplated under Section 138 of THE ACT before initiating prosecution. Because it is already held by this Court that failure to comply with any one of the steps contemplated under Section 138 would not provide "cause of action for prosecution". Therefore, in the context of a prosecution under Section 138 the concept of taking cognizance of the offence but not the offender is not appropriate. Unless the complaint contains all the necessary factual allegations constituting each of the ingredients of the offence under Section 138, the Court cannot take cognizance of the offence. Disclosure of the name of the person drawing the cheque is one of the factual allegations which a complaint is required to contain. Otherwise in the absence of any authority of law to investigate the offence under Section 138, there would be no person against whom a Court can proceed. There cannot be a prosecution without an accused. The offence under Section 138 is person specific. Therefore, the Parliament declared under Section 142 that the provisions dealing with taking cognizance contained in the CrPC should give way to the procedure prescribed under Section 142. Hence the opening of non-obstante clause under Section 142. It must also be remembered that under Section 142 does not either contemplate a report to the police or authorise the Court taking cognizance to direct the police to investigate into the complaint."*

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7. After hearing Shri Tripathi and upon perusal of the records, this court vide order dated 21.01.2025, directed the Investigating

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1 **(2018) 13 SCC 663**

Officer to submit a report detailing the reasons for registering the FIR under Section 138 of the N.I. Act. The court further directed to supply a copy of the paper book to the SSP, Bulandshahr, for his perusal. Additionally, the SSP, Bulandshahr, was directed to appear virtually through video conferencing on the next date of hearing to assist the court in this regard, and on merits of the case has placed reliance upon ***Delhi Race Club (1940) Ltd. v. The State of Uttar Pradesh & Another***[2].

8. As the registration of FIR by the police under Section 138 of N.I. Act is impermissible in law and some other Special Acts, which this Court comes across routinely, therefore, this court with the idea to sensitize the police officers about the basics of criminal law with respect to registration of FIR in cognizable offences, vide order dated 06.02.2025, directed the SSP, Bulandshahr, to prepare a detailed and comprehensive report- in consultation with the Additional Director General of Police (Prosecution), Uttar Pradesh, Lucknow, and other concerned stakeholders- of such Special Acts in which registration of FIR by police has been made impermissible and there is a bar on taking cognizance by the Magistrates on the police report under such Special Acts. The report aimed to identify and prepare a list of Acts under which the power of police of registration of FIRs is either statutorily barred or procedurally impermissible, and to provide suggestions for ensuring compliance with the legal framework, thus preventing the use of unwarranted power of police under such Special Acts.

9. In compliance with the order dated 6.2.2025, passed by this court a meeting was convened by the S.S.P. Bulandshahr with the District Level Officer of the 15 department(s) namely; **(i)** District Excise Officer, Bulandshahr, **(ii)** Drug Inspector, Bulandshahr, **(iii)** Food Inspector, Bulandshahr, **(iv)** Divisional Director, Social

2 *2024 SCC OnLine SC 2248*

Forestry Division, Bulandshahr, **(v)** District Supply Officer, Bulandshahr, **(vi)** Mining Officer, Bulandshahr, **(vii)** District Agriculture Officer, Bulandshahr, **(viii)** Electricity Department, **(ix)** Public Works Department, **(x)** ARTO, **(xi)** Medical Department, Bulandshahr, **(xii)** Animal Husbandry Department, Bulandshahr, **(xiii)** District Government Advocate (Civil) Bulandshahr, **(xiv)** District Government Advocate (Criminal), Bulandshahr, and **(xv)** Joint Director (Prosecution), Bulandshahr.

10. Based on the deliberations held among the aforesaid officers, the SSP, Bulandshahr filed a preliminary report *inter alia* stating that there have been cases where the constitutional courts have explicitly ruled regarding absolute bar on the registration of an FIR under Special Acts which have provision for bar on taking cognizance by the Magistrate except on the filing of a complaint either by the aggrieved person or by the authorized officer of the department. However, there have been instances where the registration of an FIR has been upheld in such cases in which upon registering an FIR, the police officer informed the designated officers of the concerned department or authority under the Special Acts to proceed with as a complaint case. In some cases, an FIR may be registered, but after completing the investigation, the police must submit a report before the concerned department to proceed further in accordance with law by treating the report as an information, upon which the Magistrate may take cognizance. The police report must be handed over to the concerned competent person/authorized officer, as the case may be- which alone is authorized to file the complaint along with the report before the jurisdictional Magistrate. However, for offences under the IPC as well as other Special Acts as may permissible under law, the police can directly register the FIR and consequent thereto file the police report before the court to which the Magistrate may take cognizance[3].

3 Jayant v. State of Madhya Pradesh, (2021)2SCC 670

11. It is further submitted by Shri Kuldeep Singh Chauhan, learned A.G.A. that as a result of the said initial inter-departmental coordination meeting, a consolidated list of 28 Special Acts has been compiled, identifying those Acts under which criminal proceedings are to be instituted exclusively by way of a complaint by competent person/authorized officer- as the case may be- before the jurisdictional Magistrate.

11.1 The list of such Special Acts in which the registration of FIR is impermissible, and cognizance of offence could only be taken upon the complaint or the application- as the case may be- filed by the aggrieved person and/or authorized officer by the department, the list *inter alia* includes: **(i)** Protection of Women from Domestic Violence Act, 2005, **(ii)** Negotiable Instruments Act, 1881, **(iii)** Mines and Minerals (Development and Regulation) Act, 1957, **(iv)** Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, **(v)** Consumer Protection Act, 2019, **(vi)** Prevention of Cruelty to Animals Act, 1960, **(vii)** Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, **(viii)** Air (Prevention and Control of Pollution) Act, 1981, **(ix)** Wild Life (Protection) Act, 1972, **(x)** Environment (Protection) Act, 1986, **(xi)** Import and Export (Control) Act, 1947, **(xii)** Prevention of Food Adulteration Act, 1954, **(xiii)** National Food Security Act, 2013, **(xiv)** Trade Marks Act, 1999, **(xv)** Transplantation of Human Organs and Tissues Act, 1994, **(xvi)** Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, **(xvii)** Water (Prevention and Control of Pollution) Act, 1974, **(xviii)** Cable Television Networks (Regulation) Act, 1995, **(xix)** The Foreign Exchange Management Act, 1999, **(xx)** The Insecticides Act, 1968, **(xxi)** The Notaries Act, 1952, **(xxii)** Insurance Act, 1938**, (xxiii)** Sea Customs Act, 1878 *(repealed, now replaced by the Customs Act, 1962),* **(xxiv)** Antiquities and Art Treasures Act, 1972**, (xxv)**

Industrial Disputes Act, 1947, **(xxvi)** Food Safety and Standards Act, 2006, **(xxvii)** Drugs and Cosmetics Act, 1940, and **(xxviii)** Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). It is made clear that the list is illustrative and not exhaustive.

11.2 It was further submitted that this list is intended to serve as a reference document for the purpose of guiding Investigating Officers and Prosecuting Authorities regarding the appropriate legal procedure under such Special Acts- particularly where registration of FIR is not permissible unless certain pre-conditions such as prior sanction, departmental complaint, or approval from a designated authority, are fulfilled.

11.3 The objective is to prevent inadvertent or unlawful registration of FIRs under Special Acts where such initiation is contrary to the statutory mandate or settled judicial principles, including those laid down by the Supreme Court and High Courts and barred by Special Acts.

11.4 A reliance has been placed on letter dated 27.2.2025 sent by Senior Superintendent of Police, Bulandshahr, whereby the training of Station House Officers/Investigators through workshops shall be made mandatory for upgradation of their professional skill regarding not registering the FIR under the Special Acts mentioned in the list prepared by the department, and to direct the Investigating Officers, in such pending cases in which FIR has been registered under the said Acts, though not permissible, instead of submitting a charge sheet under the Act, a report may be submitted before the concerned department for filing a separate complaint through the designated/ authorised officer.

11.5 Consequently, the Additional Director General (Prosecution), U.P. through the Additional Director (Law), Directorate of Prosecution, U.P., Lucknow issued instructions to various training

institutes of the state/all Police Commissioners/ Senior Superintendents of Police/ Superintendents of Police to organize training programs in the above regard and train all Investigating Officers/Police personnel accordingly.

12. On the request of the C.O., Bulandshahr, who had appeared in person on 28.02.2025, a week's time was further granted to finalize a comprehensive list of such Special Acts where the police cannot register FIR straight away, and in such Acts, case can be filed only by the complainant or authorized officer of the department, to have wider consultation with senior most prosecutors of the department in this regard. Accordingly, to facilitate the police, the Additional Director General (Prosecution), was directed to provide a list of the most experienced prosecutors, who are suitable for conducting the aforesaid exercise, to the Senior Superintendent of Police, Bulandshahr, to his satisfaction.

13. In compliance thereof names of, ***(i)*** Additional Director (Prosecution), Bareilly, ***(ii)*** Joint Director (Prosecution), Moradabad, ***(iii)*** Joint Director (Prosecution), Bulandshahr, ***(iv)*** Senior Prosecution Officer, Dr. Bhimrao Ambedkar Police Academy, Moradabad, and ***(v)*** Prosecution Officer, Shamli were provided by the Directorate of Prosecution, Lucknow. Who, upon wider consultation, prepared a report on 32 Special Acts along with certain sections of BNSS, 2023 in which there is no provision of registration of FIR by police but there is a provision for filing a complaint before the jurisdictional Magistrate by the complainant/authorized officer of the department, as the case may be, a reference is also invited to the detailed discussion about the legal position based on a catena of judgements[4] passed by the Supreme Court as well as various High

4 Prashant Kumar Singh v. The State of Jharkhand Cr.M.P. No.3501 of 2019**;** In Union of India v. Ashok Kumar Sharma, (2021) 12 SCC 674**;** Jeewan Kumar Raut' case (2009) 7 SCC 526**;** Rasila S Mehta v. Custodian, Nariman Bhawan Mumbai (2011)6 SCC 220**;** Dr. Aparna Singhal v. State of Haryana Criminal Misc. No. M-421 of 2021 (PHC)**;** Dr. Anant Ram v. State of Haryana, 2022 SCC OnLine P&H 2284

Courts in this regard, also reflected in the instructions provided by the police.

13.1 The instructions also contained a reference to a judgement passed by this court in ***Dr. Brij Pal Singh v. State of Uttar Pradesh***[5], examined whether the police are empowered to register an FIR and initiate proceedings in cases governed by Special Acts, particularly concerning cases where cognizance by the court of Magistrate are permissible upon complaint only. In this case, the primary issue was whether the police had the authority to investigate and file a police report regarding alleged offences under the PC & PNDT Act without a prior complaint from the appropriate authority. The court held that the cognizance order, FIR, and charge sheet deserved to be quashed, as the Magistrate was not competent to take cognizance of a charge sheet or police report without the requisite complaint from the authorized officer under the PC & PNDT Act. In its observation, the court granted leave to approach the Supreme Court for a final decision on the interplay between the CrPC and the PC & PNDT Act concerning registration of FIR and investigation. The court further observed, which is relevant for the purpose of the issue at hand, as follows:

> *"2.1 That it agrees with the landmark decision of the Apex Court in Jeewan Kumar Raut, wherein the Apex Court, while dealing with the identical provisions of the Transplantation of Human Organs and Tissues Act, 1994 Act, has taken a categorical view that the police report is inconsequential and the FIR for the offence under the provisions of the TOHO Act cannot be entertained, if any such information is received in writing, it is the duty of the police officer to report it to the Appropriate Authority, under the Act only, who can investigate the matter and file a complaint on conclusion of the investigation. The aforesald view, finds approval in the judgment of Ashok Kumar Sharma", which has dealt with the categorically provisions of Code of Criminal Procedure as well as the special Act.*
>
> *2.2 That wherever the special law provides that the complaints can be lodged or the prosecution can be initiated only by the*

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specified persons under such special law, the police officers are debarred from registering the FIR and investigating the matter as in almost all the special laws the power to investigate under the Special Acts has been given to the specified officers under such special laws. Therefore, in the considered opinion of this Court, in view of the Bar created under section 28 of the PC & PNDT Act, for any offence under the Act, no person is authorized to register the FIR Therefore, the registration of the FIR and investigation thereof is categorically barred... Therefore, police officers are debarred from registering the FIR and investigating the matter."

13.2 It is further contained in the written instructions that various constitutional courts have delivered varied judgments, and that is why an inconsistency persists in the practical application of the law as on date. The compilation provided by the police in the form of a letter further elaborates through a comparative analysis chart explaining as to how, on similar issues and laws, different outcomes have been arrived at by various constitutional courts. In some states, FIRs have been permitted to be registered for offences qualified by *"bar in taking cognizance by courts"* under the Cr.P.C. (viz. sections 195, 198 and 199) or Special Laws (a term used in the letter addressed by SSP to denote those special legislations whereunder a distinct provision/clause is provided that contains a *"bar to take cognizance"* clause while in other states, such registration of FIR is impermissible. On certain occasions, to arrive at definitive conclusion, the matter has been referred to the constitutional court as is observed in *Dr. Brij Pal Singh (supra)* of this court, and has been observed later in the *Jayant' case (supra)* of the Supreme Court. However, such references have been limited to the specific legislation in question, without addressing the issue comprehensively for all Acts containing a similar *"bar to take cognizance"* clause. Given the aforesaid discussion, it appears imperative and relevant to establish a final and uniform legal position on the interpretation and application of all such legislation containing similar or identical provisions/clauses. A list of most of such legislations – routinely

used- has been prepared by the Directorate of Prosecution for police and prosecutors.

14. The initial compilation placed before the court may be useful for academic reference, for sure a well thought provoking endeavour has been made by the police in collaboration with the Directorate of Prosecution, however, the necessary clarity required by the Station House Officers (SHOs) for the registration of FIRs *vis-a-vis* not registration of FIR under such Special Acts has not been provided therein. It is observed that, had SHO's possessed adequate knowledge in this regard, the instances involving unauthorised registration of FIRs by the police would not have been brought before this court.

15. In compliance with the order dated 06.03.2025, and pursuant to Letter No. Five-1-55-2024/1058/2024 dated 11.03.2025, issued by the Director General (Prosecution), Directorate of Prosecution, Lucknow, again a meeting was convened through video conferencing on 11.03.2025. The meeting involved experienced Prosecutors and District Government Advocates (Criminal) and focused on rather preparation of a comprehensive list of such Special Acts in which there is no provision for registration of First Information Report (FIR) by the police, and where instead the process of filing a complaint has been prescribed, vis-a-vis Special Acts which contain provisions for the registration of an FIR.

16. The following officers participated in the aforementioned meeting: ***(i)*** Additional Director (Prosecution), Ayodhya Region, ***(ii)*** Additional Director (Prosecution), Moradabad Region, Moradabad, ***(iii)*** Additional Director (Prosecution), Bareilly Region, Bareilly, ***(iv)*** Additional Director (Prosecution), Saharanpur Region, Saharanpur, ***(v)*** Joint Director (Prosecution), Moradabad, ***(vi)*** Joint Director (Prosecution), Lucknow Bench, of Allahabad High Court, ***(vii)*** Joint Director (Prosecution), Allahabad, ***(viii)*** Joint Director (Prosecution),

Gautam Buddh Nagar, ***(ix)*** Joint Director (Prosecution), Rampur, ***(x)*** District Government Advocate (Criminal), Allahabad, ***(xi)*** District Government Advocate (Criminal), Muzaffarnagar, ***(xii)*** District Government Advocate (Criminal), Meerut, ***(xiii)*** District Government Advocate (Criminal), Kasganj, ***(xiv)*** District Government Advocate (Criminal), Hathras, ***(xv)*** Additional District Government Advocate (Criminal), Bulandshahr, ***(xvi)*** District Government Advocate (Civil), Muzaffarnagar, ***(xvii)*** Spcial Public Prosecutor, Bulandshahr (two participants), ***(xviii)*** Prosecution Officer, Shamli,

17. After detailed deliberation through video conferencing with the above-named officers/Government Advocates nominated by the Additional Director General (Prosecution), it was concluded that the following are the Special Acts amongst others under which there is a procedure to file a complaint before the jurisdictional magistrate by the competent person or the authorised officer by the department – as the case may be, and such Acts includes: **(i)** Domestic Violence (Women Protection) Act, 2005, **(ii)** Negotiable Instruments Act, 1881, **(iii)** Mines and Minerals Act, 1957, **(iv)** Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994, **(v)** Consumer Protection Act, 2019, **(vi)** Prevention of Cruelty to Animals Act, 1871, **(vii)** Child Labour (Prohibition and Regulation) Act, 1986, **(viii)** Air Pollution Prevention and Control Act, **(ix)** Wildlife Protection Act, 1972, **(x)** Environment Protection Act, 1986, **(xi)** The Import and Export (Control) Act, 1947, **(xii)** Prevention of Food Adulteration Act, 1954, **(xiii)** National Food Security Act, 2013, **(xiv)** Trade Marks Act, 1999, **(xv)** Transplantation of Human Organs and Tissues Act, 1994, **(xvi)** Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal Act, 2013, **(xvii)** Water Pollution Prevention and Control Act, 1974, **(xviii)** Cable Television Networks (Regulation) Act, 1995, **(xix)** Foreign Exchange Management Act, 1999, **(xx)** Insecticide Act, 1968, **(xxi)** Notaries Act 1952, **(xxii)**

Insurance Act, 1938, **(xxiii)** The Antiquities and art treasures act 1972, **(xxiv)** Industrial Disputes Act, 1947, **(xxv)** Food Safety Act, 2006, **(xxvi)** The Disaster Management Act, 2005, **(xxvii)** The National Medical Commission Act, 2019, **(xxviii)** The Uttar Pradesh Sugarcane (Regulation and Purchase) Act, 1953, **(xxix)** Fire Prevention and Fire Safety Act, 2005, **(xxx)** The Dowry Prohibition Act, 1961, **(xxxi)** Standards of Weights and Meassures Act, 1976.

17.1 Whereas the following are the Special Acts amongst others which contains the provision for registration of FIR by police. Such Special Acts includes; ***(i)*** Narcotic Drugs and Psychotropic Act, ***(ii)*** Arms Act, ***(iii)*** Essential Commodities Act, ***(iv)*** Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1983, ***(v)*** Protection of Children from Sexual Offences Act, ***(vi)*** Juvenile Justice (Care and Protection of Children) Act, ***(vii)*** Explosive Act 1884, ***(viii)*** Explosive Substances Act 1908, ***(ix)*** Criminal Law Amendment Act 1932, ***(x)*** The Uttar Pradesh Prevention of Cow Slaughter Act 1955, ***(xi)*** The Muslim Women (Protection of Rights on Marriage) Act 2019, ***(xii)*** Prevention of Corruption Act 1988, ***(xiii)*** Information Technology Act 2000, ***(xiv)*** The Uttar Pradesh Control of Goondas Act 1970, ***(xv)*** United Provinces Excise Act, ***(xvi)*** Immoral Traffic (Prevention) 1956, ***(xvii)*** The Cinematograph Act, ***(xviii)*** The Prevention of Cruelty to Animal Act 1960, ***(xix)*** Copyright Act 1957, ***(xx)*** Public Gambling Act 1867, ***(xxi)*** The Prevention of Damage to Public Property Act 1984, ***(xxii)*** The Representation of the People Act 1951, ***(xxiii)*** The Unlawful Activities (Prevention) Act 1967, ***(xxiv)*** The Uttar Pradesh Protection of Trees Act 1976, ***(xxv)*** The Uttar Pradesh Ragging in Educational Institutions Act 2010, ***(xxvi)*** The Uttar Pradesh Public Examination (Prevention of Unfair Means) Act 2024, ***(xxvii)*** The Uttar Pradesh Electric Wire and Transformers (Prevention and Punishment of theft) Act 1976, ***(xxviii)*** The Weapons of Mass Destruction and their Delivery System (Prohibition of Unlawful

Activities) Act 2002, ***(xxix)*** Coinage Act 2011, ***(xxx)*** The Religious Institutions (Prevention of Misuse) Act 1988, ***(xxxi)*** The Small Coin (Offences) 1971, ***(xxxii)*** The Dowry Prohibition Act 1961, ***(xxxiii)*** The Drugs and Magic Remedies (Objectionable Advertisement) Act 1954, ***(xxxiv)*** The Prize Chits and Money Orculation Schemes (Banning) Act 1978, ***(xxxv)*** The Places of Worship (Special Provisions) Act 1991, ***(xxxvi)*** Indecent Representation of Women Prohibition Act 1986, ***(xxxvii)*** The Lotteries (Regulation) Act 1998, ***(xxxviii)*** Passport Act 1967, ***(xxxix)*** The Chits Fund Act 1982.

18. It has also been apprised to this court by the learned counsel for the applicant that the Investigating Officer has filed an application under Section 173(8) Cr.P.C. before the learned Chief Judicial Magistrate, Bulandshahr, for seeking further investigation in the FIR No. 663 of 2023 with an ulterior motive to cure the illegality committed by police. Apparently, this Court observes that there is no such *mala fide* on the part of the Police to move such an application for further investigation as has been *prima- facie* reflected, in the given facts. The investigation or further investigation is the sole prerogative of the police and cannot be scuttled under the inherent jurisdiction of this court, abruptly.

19. Reverting to the merits of the case, the prosecution alleges that the informant had booked two plots with the applicant and paid the entire sale consideration. However, instead of executing the sale deed in favour of the complainant, the applicant sold the said plots to a third party without his consent and knowledge. Subsequently, the applicant issued four refund cheques in favour of the complainant with the intention to cheat him, all of which were dishonoured upon presentation.

19.1 Upon perusal of the FIR and the incriminating material annexed with the charge sheet, this Court is of the view that no case has been

made out for quashing the charge sheet against the applicant in respect of the offences under Sections 420 and 406 IPC.

19.2 As regards the submission of Shri Vimlendu Tripathi, learned counsel for the applicant, in relation to the offence under Section 138 of the Negotiable Instruments Act, the Court finds legal merit in the contention. Accordingly, based on the above deliberations and the legal position discussed, the impugned cognizance and order on charge dated 3.6.2024 & 18.7.2024 respectively, passed by the learned Chief Judicial Magistrate, Bulandshahr, is hereby quashed with the direction to the trial court to hear the applicant afresh again at the point of charge with respect to the offences under Sections 420 and 406 IPC, it shall remain open for the applicant to raise all permissible contentions at the stage of framing of charge, whereupon the trial court shall proceed in accordance with law after considering the same. The observations made herein regarding the offences under Sections 420 and 406 IPC shall have no bearing on the proceedings before the trial court. The trial court may issue a fresh cognizance order after due application of judicial mind.

20. In view of the aforesaid, the instant application stands ***partly allowed***.

DIRECTIONS

21. Registrar (Compliance) is hereby directed to forwarded a copy of this order to; ***(i)*** ACS (Home) for his record, reference, and necessary action, ***(ii)*** Additional Director General (Prosecution) to issue *fresh directions* to police through Director General of Police, and all Joint Directors (Prosecution) with a fresh list of such Special Acts as may be prepared, and ***(iii)*** Additional Director General, Dr. Bheem Rao Ambedkar Police Academy, Moradabad for incorporating in the training schedule.

21.1 A copy of the letter dated 27.02.2025, 05.03.2025 and 11.03.2025 issued by SSP Bulandshahr be sent to the Additional Director General (Prosecution), Lucknow, for their record and reference to issue a fresh list, as aforesaid directed.

21.2 A copy of this order be forwarded to the Chief Secretary, Government of Uttar Pradesh, to issue necessary directions to the respective departments in accordance with the terms of this order in consultation with the Directorate of Prosecution, Lucknow.

22. There is yet another dimension to the case at hand, as earlier noted, where the police, as aforesaid discussed, have failed to comply with the basic tenets of criminal jurisprudence- namely, prompt delivery of the FIR to the jurisdictional magistrate, and proper and fair conduct of investigation- the first duty rests upon the learned Magistrate to take note of such illegality or irregularity, and apprise the police accordingly, and, if necessary, summon the Investigating Officer forthwith. This duty arises immediately upon receipt of the FIR, which, as a matter of course, reaches the court within twenty-four hours of registration of FIR.

23. It is, however, noticed with concern that orders taking cognizance are, in many instances, passed mechanically and in routine, without application of judicial mind to the material gathered during investigation. Such casual exercise of jurisdiction defeats the very purpose of judicial scrutiny at the threshold and allows defective proceedings to progress unchecked, thereby necessitating intervention by this Court at a later stage.

24. The Magistrate, being vested with adequate powers and are professionally trained to oversee the investigative process, bears a higher responsibility to ensure that the investigation conforms to law. Failure to discharge this responsibility- by ignoring patent illegalities at the stage of receiving the FIR and mechanically taking cognizance-

inevitably burdens the High Court with avoidable and protracted litigation from the stage of registration of FIR until the framing of charges.

25. In essence, it can be concluded that a copy of FIR is forwarded to the nearest magistrate within 24 hours of the registration of the crime for the perusal of the magistrate; with the idea to bring the occurrence of the offence and subsequent proceedings to the knowledge of the magistrate to check illegality or false implication by the police, if any, but unfortunately the learned magistrate remains *oblivious* of their duty and responsibility in this regard, it unfortunate.

FURTHER DIRECTIONS

26. Therefore, directions are issued forthwith to the following manner.

27. All the learned District Judges to sensitize the learned Judges of the district not to take cognizance on the police report filed in contravention of the provisions of Special Acts referred herein above, or otherwise where there is a specific bar for a court to take cognizance of any offence under the Special Acts except on a complaint made by the officer authorized and/or any person competent to file a complaint before the jurisdictional Magistrate in a manner prescribed by the respective Special Acts. The learned Judges are further required to sensitize that registration of FIR as a serious repercussion in criminal jurisprudence, if the illegality with respect to impermissiblity of registration of FIR is checked at initial stage (within 24 hours of its registration), it would save lot of resources and time of the High Court besides harassment to the aggrieved person.

28. It is pertinent to highlight further aspect of such illegality that the actual accused who commits the crime got scoot free because of the ignorance of the police and Magistrates, and the courts are unnecessarily burdened dealing with misconceived litigation.

29. The court places on record its sincere appreciation for the valuable assistance rendered by Shri Vimlendu Tripathi, learned counsel for the applicant; Shri Kuldeep Singh Chauhan, learned A.G.A. for the State; Shri Dipesh Juneja, Additional Director General (Prosecution); and Shri Shlok Kumar, the SSP, Bulandshahr, who have efficiently done an exhaustive exercise in collaborative efforts with Additional Director General (Prosecution), Uttar Pradesh, along with the Districts head of 15 departments referred herein above in para-9, the five senior most prosecutors of Uttar Pradesh named in letter dated 5.3.2025 and 21 senior Prosecution Officers named in letter dated 11.3.2025 in arriving at a conclusion that in 38 Special Acts (referred herein above in paragraph-17) besides other Special Acts the police are not empowered to register an FIR and if, inadvertently done, the same shall be referred to the respective department or to the competent person to deal with the issue involved and subsequent investigation- if any- in accordance with law by treating the same an information or narration of facts constituting ingredients of such offence as required in given Special Acts.

30. The **Registrar (Compliance)** is further directed to forthwith transmit a copy of this order to all learned District Judges, to be placed before all Judicial Officers for deliberation and to ensure its effective compliance.

Order Date:- 12.8.2025
Anil K. Sharma

Justice Vinod Diwakar

Digitally signed by :-
ANIL KUMAR SHARMA
High Court of Judicature at Allahabad