* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: September 15, 2026
% ***Pronounced on: September 29, 2026***

\# **CNR No. DLHC010383112022**

\+ **CRL.M.C. 5185/2022, CRL.M.A. 20708/2022**

HEMKUNT FOUNDATION THR. ITS TRUSTEE SMT NATASHA AHLUWALIA .....Petitioner

Through: Mr. R.K. Handoo, Mr. Yoginder Handoo, Mr. Aditya Chaudhary, Mr. Ashwin Katara, Ms. Khushboo Mittal, Mr. Garvit Solanki, Mr. Gaurav, Mr. Adtiya Aggarwal, Advs.

Versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Meenakshi Dahiya, APP
SI Manjeet Singh, IFSO, Special Cell

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. This Court is called upon to adjudicate the present petition under *Section 482* of the Code of Criminal Procedure[1] wherein the petitioner seeks quashing of FIR No.18/2022 dated 22.01.2022 registered at Police Station[2]: Special Cell, Delhi under *Sections 406/420/120B* of the Indian Penal Code, 1860[3] and all the consequential proceedings arising therefrom.

2. As per FIR, a secret information was received regarding suspicious financial activities by Hemkunt Foundation/ petitioner[4]. Upon enquiry, it was found that the petitioner, on the pretext of providing relief to people

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[1] Hereinafter referred to as ***"CrPC"***
[2] Hereinafter referred to as ***"PS"***
[3] Hereinafter referred to as ***"IPC"***
[4] Hereinafter referred to as ***"petitioner"***

suffering from Covid-19 pandemic, particularly by posting emotional photos and videos, collected huge amounts of donation from general public as also from the corporate entities in its bank accounts amounting to an approximate sum of Rs.74.55 crores. Out of the amount so collected, the petitioner created fixed deposits, as also transferred Rs.38.31 crores to a firm called M/s. Dhruva Healthcare LLP for purchase of land.

3. It also surfaced during enquiry that the said M/s. Dhruva Healthcare LLP was formed in the year 2006 as Dhruva Healthcare Private Limited, and had no business activity till July, 2021, however, subsequently in August, 2021, the said company was converted to Limited Liability Partnership (LLP) firm.

4. Aggrieved by registration of the present FIR under *Sections 406/420/ 120B* IPC and proceedings emanating therefrom, the petitioner is before this Court by way of the present petition seeking quashing thereof.

5. The learned counsel for the petitioner, under these circumstances, submitted as follows:-

5.1. The petitioner is a public charitable trust constituted on 17.02.2010 with various objects of charity and has always been engaged in various large-scale humanitarian and charitable works across India, including disaster relief operations in flood affected States for support of farmers since its inception. In fact, during the Covid-19 pandemic, the petitioner undertook relief operations, including supply of Oxygen cylinders, medical kits and ration and food, which were recognized/ reported and acclaimed nationally and internationally.

5.2. The present FIR is only a retaliation of the petitioner rendering sewa during the farmers' agitation, and in order to harass the petitioner. Initially the Income Tax Department conducted search proceedings, where no incriminating materials were found against the petitioner and, thereafter the petitioner and its trustees were implicated in a false case under Prevention of Money Laundering Act, 2002[5], for which a scheduled offence was contrived by getting the present FIR registered.

5.3. There is no victim in the present proceedings as nobody has come forward or made any complaint with the police *qua* cheating or entrustment against the petitioner so as to trigger the present FIR. Similarly, there is no injured person herein as well. The present FIR has been registered pursuant to secret information and on the complaint of the SI, who, *admittedly*, is not the victim and thus, had no *locus standi* to put the criminal law in motion.

5.4. Even after conducting the whole investigation, both by the Enforcement Directorate and the Police, the aforesaid position remained the same. Reliance placed by the prosecution on the statement of one Mr. Yuvraj Pokharana from Gujrat cannot be taken into consideration since he is admittedly not a donor and his entire statement is merely a hearsay.

5.5. Relying upon the decision of a Co-ordinate Bench of this Court in ***M/s. PPK Newsclick Studio Pvt. Ltd. & Anr. vs. State (NCT of Delhi) & Ors.***[6], it was submitted that criminal proceedings initiated in absence of a victim/ injured person amounts to an abuse of the process of law.

5.6. On merits, the allegations in the FIR, even if read in totality, do not make out offences under *Sections 406/420* IPC inasmuch as the essential ingredients of offences of both '*criminal breach of trust*' and '*cheating*' are conspicuously absent in the present case. Particularly, whence '*donation*'

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[5] Hereinafter referred to as ***"PMLA"***

[6] 2026: DHC: 5098

by its very nature involves complete divestment of the ownership, it cannot be treated as entrustment which is a *sine qua non* for attracting the offense under *Section 406* IPC. Similarly, as the entire case of the prosecution hinges only on the allegations that the funds were collected through emotional appeals, the same are not sufficient for meeting the essential ingredients of *Section 420* IPC. Moreover, neither the contents of the FIR nor the chargesheet point towards deception from the inception which is the *sine qua non* for attracting the offense under *Section 420* IPC.

5.7. The allegation of diversion of funds to Dhruva Healthcare LLP is also unsustainable, particularly, since the chargesheet itself shows that the said entity owned property and has a financial history, negating the allegation of it being a sham one. In any event, the transfer of Rs.38.31 crores is traceable to identifiable assets. Moreover, there is also no allegation of personal gain or siphoning. As such, mere utilization of funds for other charitable objects of the trust, cannot constitute cheating in law.

5.8. The creation of Fixed Deposits from the petitioner's current account to earn interest on funds of trust cannot constitute misappropriation as the funds remain traceable within the banking system, which negates any element of dishonest conversion of property by the petitioner and at best, the allegations relate to application of funds, which cannot be criminalized.

5.9. Reliance was also placed upon ***Arshad Neyaz Khan vs. State of Jharkhand***[7]***; Madhab Bhattacharjee vs. State of West Bengal & Anr.***[8]***; Delhi Race Club (1940) Ltd. & Ors. vs. State of Uttar Pradesh & Anr.***[9]***; Shafiya Khan @ Shakuntala Parajapati vs. State of Uttar Pradesh***

[7] 2025 SCC OnLine SC 2058;
[8] 2014 SCC OnLine Cal 22693
[9] (2024) 10 SCC 690

***& Anr.*[10]*; Mitesh Kumar J. Sha vs. State of Karnataka & Ors.*[11]*; Robert John D'Souza & Ors. vs. Stephen V. Gomes & Anr.*[12]*; Thermax Ltd. & Ors. vs. K.M. Johny & Ors.*[13]*; Mohammed Ibrahim & Ors. vs. State of Bihar & Anr.*[14]*; Indian Oil Corporation vs. NEPC India Ltd. & Ors.*[15]*; CBI, SPE, SIU(X), New Delhi vs. Duncans Agro Industries Ltd., Calcutta*[16]*; Nemi Chand Jain @ Chandraswami & Ors. vs. CBI*[17]*; Rakesh Brijlal Jain vs. State of Maharashtra*[18]**.

6. Based on the aforesaid submissions, learned counsel for the petitioner prayed for quashing of the FIR.

7. *Per contra*, learned APP for the State submitted as follows:-

7.1. The investigation *prima facie* disclosed commission of the offences under *Sections 406/420/120B* IPC. The donations were solicited through social media campaigns, crowdfunding platforms and public appeals, with specific representations that the funds would be utilised exclusively towards Covid-19 relief activities, including procurement of oxygen cylinders, oxygen concentrators, medicines and other emergency medical supplies. Acting on such representations only thousands of individual donors and various corporate entities had parted with substantial amounts in favour of the petitioner, which can also be seen from the transaction narrations accompanying several donations wherein it has been mentioned

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[10] (2022) 4 SCC 549
[11] 2021 SCC OnLine SC 976
[12] (2015) 9 SCC 96
[13] (2011) 13 SCC 412
[14] (2009) 8 SCC 751
[15] (2006) 6 SCC 736
[16] (1996) 5 SCC 591
[17] 2006 SCC OnLine Del 1160
[18] 2025 SCC OnLine Bom 118

"Covid", "Corona" and "Oxygen". Thus, delivery of property was therefore a direct consequence of the representation made by the petitioner.

7.2. The ingredients of *Section 406* IPC are *prima facie* established inasmuch as the donated funds constituted property entrusted by the donors for a specific charitable purpose, thereby conferring dominion over such property upon the petitioner and creating an obligation to utilise the same for the purpose represented. Since the petitioner subsequently transferred substantial amounts to Dhruva Healthcare LLP and also created Fixed Deposits, which were for the purposes other than those for which the funds were entrusted, such acts constitute dishonest dealing with the entrusted property, thereby attracting *Section 406* IPC.

7.3. The representations by the petitioner regarding utilisation of the donations for Covid-19 relief activities were specific representations, which formed the basis upon which the donors were induced to part with their money, are sufficient for any offence under *Section 420* IPC. The subsequent financial trail showing transfer of funds to Dhruva Healthcare LLP and creation of Fixed Deposits, coupled with failure of the petitioner to satisfactorily account for utilisation of substantial CSR donations, *prima facie*, demonstrates that the donors were induced to deliver their property on the basis of false and dishonest representations.

7.4. The petitioner was exclusively managed and controlled by members of a single family, namely, Smt. Kiran Ahluwalia, Sh. Irinder Singh Ahluwalia, Smt. Natasha Ahluwalia and Sh. Harkirat Ahluwalia and that there was no independent trustee or governing member outside the said family. They exercised exclusive control over the petitioner, its bank accounts and the donated funds facilitated the subsequent movement and utilisation thereof. The aforesaid, *prima facie* show their common control and concerted action.

7.5. The statements of various independent institutional donors, namely, M/s. Perfetti Van Melle India Pvt. Ltd., M/s. Mahindra & Mahindra Ltd. and M/s. HSBC Electronic Data Processing India Pvt. Ltd., were also recorded during investigation, which revealed that they had donated substantial amounts specifically for Covid-19 relief on the basis of representations made by the petitioner and subject to furnishing utilisation certificates, bills and invoices. The petitioner failed to satisfactorily furnish such records and as a consequence thereof M/s. Perfetti Van Melle India Pvt. Ltd. had also lodged a complaint dated 07.11.2022 at PS DLF Phase-1, Gurugram.

8. Based thereon cumulatively, learned APP submitted that the aforesaid, *prima facie*, disclose sufficient materials to continue with the present FIR.

9. This Court has heard learned counsel for the petitioner and learned APP for the State as also perused the materials on record and the judgments cited at the Bar.

10. At the outset, it is of utmost relevance to note that as per the trite position, power of this Court under *Section 482* of the CrPC to quash an FIR/ criminal proceeding is very much limited and its inherent/ extraordinary power to quash has to be sparingly exercised, and that too only in rarest of the rare cases. Reliance in this regard is placed upon the

celebrated decision in ***State of Haryana v. Bhajan Lal***[19], wherein the Hon'ble Supreme Court has laid down as under:

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
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> > *(1)* ***Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.***
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *(3)* ***Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.***
> >
> > *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

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[19] 1992 Supp (1) SCC 335

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) ***Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.***

(7) Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

[Emphasis Supplied]

11. Essentially, the issue herein is, as to if any *prima facie* case under *Sections 406/420/120B* of the IPC is made out against the petitioner on the basis of the contents of the present FIR and/ or the materials collated during investigation thereafter, even if they are taken at their face value and assumed to be true. This has to be dealt with keeping in mind the findings rendered by the Hon'ble Supreme Court in ***Bhajan Lal (supra)***.

12. At the outset, for any offence(s) alleged to have been committed by the petitioner under *Section 406* IPC and/ or also under *Section 420* IPC, *the existence of an aggrieved person is a pre-requisite*, which, admittedly, is missing under the facts herein. It is an undisputed position that there is neither any '*aggrieved person*' nor any '*victim*' who had alleged to have entrusted his property or to have been cheated by the petitioner which led to the present FIR. In fact, while dealing with the same issues, a Co-

ordinate Bench of this Court in ***M/s. PPK Newsclick SPL (supra)*** has held as under:-

> *"81. The Petitioners have been charged* ***with the offence under Section 420 IPC*** *which deals with cheating and dishonestly inducing delivery of property.*
>
> *82. The term* ***'cheating' is defined under Section 415 IPC****, which states that whoever by deceiving any person fraudulently or dishonestly induces the person so deceived to deliver any property is said to have committed the offence of cheating.*
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> *83. <u>For the offence of cheating, it is necessary that there must be an aggrieved person who has been cheated out of his valuable property.</u> In this case, M/s Worldwide Media Holdings LLC is the entity which had forwarded 1.5 Million USD to the Petitioner. <u>However, there is no Complaint whatsoever, by the Company about having been cheated by the Petitioner. Pertinently, the Complaint had been made by one Shoban Singh, who was merely an informant and was not the aggrieved person. There is nothing which has emerged even during the investigations as reflected in the Status Report, that there was any person who was aggrieved or who was cheated by the Petitioner.</u>* ***The offence of cheating even if all the allegations made are admitted, is not established****.*
>
> *84. The* ***second offence with which the Petitioner has been charged under Section 406 IPC for having misappropriated the property that was entrusted to him by some person.*** *<u>By the same logic there is neither any person who has claimed to have entrusted a property or that it has been misappropriated by the Petitioner.</u> There may have been a business transaction of investment and purchase of shares by M/s Worldwide Media Holdings LLC on payment of 1.5 Million USD, but by no stretch of interpretation can it be said to be an entrustment by M/s Worldwide Media Holdings LLC or misappropriation by the Petitioner.*
>
> *85. Even if all the allegations are accepted,* ***no offence under 406 or 420 IPC is disclosed in the FIR*** *and in the subsequent investigations that have been undertaken."*
>
> ***[Emphasis Supplied]***

13. As per facts involved herein, ***legally*** speaking, as the registration of the present FIR is a result of a *secret information* regarding suspicious financial activities of the petitioner on the basis of a complaint of an SI, who, *admittedly*, was never an '*aggrieved person*' or a '*victim*', the very basis thereof, rocks the very foundation of the FIR itself. In such a situation, the very essence of the (alleged) offences, if any, required under and which are forming the very bedrock of both *Section 406* IPC and *Section 420* IPC, is/ are absent/ missing.

14. ***Factually*** also, a perusal of the allegations made in the FIR, even taken as it is on their face value, do not reflect that there is/ are any offence sought to be made out either under *Section 406* IPC and/ or under *Section 420* IPC against the petitioner, as there is no '*criminal breach of trust*' and/ or '*cheating*' is made out.

15. As per IPC, *Section 405*[20] defines what is a "*criminal breach of trust*", which is punishable under *Section 406*[21] thereof, and the essential ingredients whereof, as per the Hon'ble Supreme Court in ***Delhi Race Club***

[20] **405. Criminal breach of trust**.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

[*Explanation* [1].—A person, being an employer [of an establishment whether exempted under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), or not] who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

[*Explanation 2*.—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

[21] **406. Punishment for criminal breach of trust**.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(supra) are, ***firstly*** that there has to be an entrustment of property or dominion over property; ***secondly*** that the person so entrusted must thereafter dishonestly misappropriate or convert such property to his own use, or dishonestly use or dispose of the same, or wilfully suffer any other person to do so; and ***thirdly*** that such misappropriation, conversion, use or disposal must be in violation of any direction of law prescribing the manner in which such trust is to be discharged or of any legal contract touching the discharge of such trust.

16. In fact, the same view has also been reiterated earlier by the Hon'ble Supreme Court in ***S.W. Palanitkar v. State of Bihar***[22].

17. It is amply clear therefrom that to constitute an offence of any '*criminal breach of trust*', there should be some entrustment of the property to the accused, *albeit*, without transfer of ownership thereof.

18. The Hon'ble Supreme Court in ***Duncans Agro Industries Ltd. (supra)*** while dealing with '*entrustment*' held as under:-

> *"27. In the instant case, a serious dispute has been raised by the learned counsel appearing for the respective parties as to whether on the face of the allegations, an offence of criminal breach of trust is constituted or not.* ***In our view, the expression "entrusted with property" or "with any dominion over property" has been used in a wide sense in Section 405 IPC. Such expression includes all cases in which goods are entrusted, that is, voluntarily handed over for a specific purpose and dishonestly disposed of in violation of law or in violation of contract. <u>The expression 'entrusted' appearing in Section 405 IPC is not necessarily a term of law. It has wide and different implications in different contexts. It is, however, necessary that the ownership or beneficial interest in the ownership of the</u>***

[22] (2002) 1 SCC 241

property entrusted in respect of which offence is alleged to have been committed must be in some person other than the accused and the latter must hold it on account of some person or in some way for his benefit. ***The expression 'trust' in Section 405 IPC is a comprehensive expression and has been used to denote various kinds of relationships like the relationship of trustee and beneficiary, bailor and bailee, master and servant, pledger and pledgee. When some goods are hypothecated by a person to another person, the ownership of the goods still remains with the person who has hypothecated such goods. The property in respect of which criminal breach of trust can be committed must necessarily be the property of some person other than the accused or the beneficial interest in or ownership of it must be in the other person and the offender must hold such property in trust for such other person or for his benefit***. *In a case of pledge, the pledged article belongs to some other person but the same is kept in trust by the pledgee... ..."*

[Emphasis Supplied]

19. As evident from a bare perusal of the FIR involved herein, it is the case of the prosecution that the petitioner had received approximately Rs.74.55 Crores, from the general public and corporates entities by way of '*donation*', which is an unrebutted fact as it has neither been denied by the prosecution nor the petitioner, much less those gave such amounts.

20. *Etymologically speaking*, as per Black's Law Dictionary, the term "*donation*" means and connotes that it is "*a **gift** especially to a charity*", and the term "*gift*" as contained therein, is defined in *Section 122* of the Transfer of Property Act, 1882 as a *"... ...transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee"*. Consequently, whence

a donation is voluntarily made by any *donor* and it is accepted by the *donee,* the donor ceases to have any ownership or beneficial interest in the property so donated. Reference in this connection can be made to the decision of Hon'ble High of Calcutta in ***Madhab Bhattacharjee (supra)*** wherein it has been held as under:-

> *"12. ... ...It appears from paragraph 5 of the petition of complaint that the opposite party No. 2 provided the fund to the petitioner who granted receipts showing the said payment as "donation" to get the exemption from income tax under Section 80G of the Income Tax Act, 1961. The meaning of "donation" given in page 561 of Black's Law Dictionary (9th Edition) is "a gift especially to a charity" and the word "donated" means "to give (property or money) without receiving consideration for the transfer". "Gift" is also defined in Section 122 of the Transfer of Property Act, 1882 as "transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee and accepted by or on behalf of the donee". According to the above definition of "donation" and "gift", it is crystal clear that the donor cannot retain the ownership of the property after donation and thereby the donor cannot have any right or interest over the said property.. ...."*

21. As evidently apparent therefrom, such a '*donation*' is, *per se*, in the nature of a personal transaction *inter se* two individuals/ entities, and ideally is between them.

22. In view thereof, since what the petitioner received was only a '*donation*', and there was clearly no '*entrustment*' by any of such *donee*, consequently, it cannot be said that there is any misutilization of such amounts received as a '*donation*' by it, either for purchasing a land from M/s. Dhruva Healthcare LLP or for creation of fixed deposits, or that it

failed to satisfactorily account for utilisation of the donations by producing utilisation reports, bills and supporting documents. In the absence of any kind of '*entrustment*', there can be no '*criminal breach of trust*'.

23. Accordingly, under such circumstances the present FIR under *Section 406* IPC is not sustainable against the petitioner.

24. Similarly, as per IPC, *Section 415*[23] defines what is a "*cheating*", which is punishable under *Section 420*[24] thereof, whence delivery of property is involved, and the essential ingredients whereof are: ***firstly*** that there should be fraudulent or dishonest inducement of a person; ***secondly*** that the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; and that the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit, if he were not so deceived.

25. Also, as per the settled position of law as on today, for constituting the offence of '*cheating*', there has to be clear element of dishonest or fraudulent intention on the part of the accused in non-fulfilling the promise from the very commencement/ inception of the transaction involved. Any failure to honour a promise or a subsequent deviation therefrom, *sans* such intention, cannot constitute the offence of '*cheating*'.

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[23] **415. Cheating**.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

[24] **420. Cheating and dishonestly inducing delivery of property.—**Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

26. Though it has been alleged herein by the prosecution that the petitioner collected huge amount of donations from the general public under the pretext of providing relief to people suffering from Covid-19 pandemic, particularly, by posting emotional photos and videos, however, neither is it borne out from the allegation(s) made in the FIR nor is there an iota of any such material(s) collected during investigation and/ or available therefrom to suggest that the same was done with any dishonest or fraudulent intent of the petitioner '*cheating*', so as to constitute an offence under *Section 420* of the IPC.

27. In fact, contrary to that, it is the own case of the prosecution in the PMLA proceedings arising out of the present FIR that the petitioner has spent a substantial amount of Rs.5.18 crores on Covid-19 relief activities.

28. As such, merely because the petitioner solicited donation on emotional appeal, it does not make out a case for deception. Moreover, the utilisation of the funds in a manner, which, *arguendo*, assumed to be inconsistent with the purpose for which the donations were solicited, cannot, by itself, constitute the offence of '*cheating'*, much less in the absence of material demonstrating deception and dishonest intention at the inception.

29. Accordingly, under such circumstances, the present FIR under *Section 420* IPC is also not sustainable against the petitioner.

30. Thus, it logically follows that once the allegations contained in the FIR and the materials collected during investigation thereafter, do not disclose the essential ingredients of *Section 406* IPC and*/ or Section 420* of the IPC, no offence under *Section 120B* IPC can independently be maintainable/ tried, and thus the FIR involved cannot itself survive.

31. Resultantly, in view of the afore-going discussions, the present FIR No.18/2022 dated 22.01.2022 registered at Police Station: Special Cell, Delhi, and all the consequential proceedings arising therefrom, is hereby quashed.

32. As such, the present petition along with the pending application is allowed and disposed of.

SAURABH BANERJEE, J.

SEPTEMBER, 29, 2026/Ab/GA