

Court No. 67

A.F.R.

Neutral Citation No. - 2025:AHC:105513

Judgement Reserved on 23.05.2025

Judgement Delivered on 07.07.2025

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION NO. 2213 of 2025

Diwakar Nath TripathiRevisionist

Through : Ramesh Chandra Dwivedi,
Abhishek Mishra, Chandrakesh Mishra,
K.K. Roy, Prabal Pratap
(Mr. Daya Shanker Mishra, learned Senior Advocate)

Versus

State of U.P. and anotherOpposite Party

Through: Mr. Ashutosh Kumar Sand,
Learned Government Advocate
(Mr. Manish Goyal, learned Senior Advocate/AAG) for **State**
Mr. Pawan Kumar Singh for **O.P No. 2**

Index

<u>Contents</u>	<u>Page Nos.</u>
• Factual matrix of the case.....	03-09
• Submissions on behalf of Revisionist	09-13
• Submissions on behalf of State	13-20
• Submissions on behalf of Respondent No. 2	21-26
• Discussion about object of Section 156(3) Cr.P.C.....	26-31
• Analysis.....	31-39
• Conclusion.....	39-40

CORAM: Hon'ble Sanjay Kumar Singh, J.

ORDER

1- This Criminal Revision under Section 397 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) has been filed by the revisionist with a prayer to set aside the judgment and order dated 04.09.2021 passed by the Additional Chief Judicial Magistrate in Misc. Case No. 102/XII/2021 (C.N.R. No. 2750/2021), whereby the learned Magistrate rejected the application under Section 156 (3) Cr.P.C dated 20.07.2021 filed by the revisionist seeking direction for registration of First Information Report against respondent no. 2 and to investigate the same.

2- Heard Mr. Daya Shankar Mishra, learned Senior Counsel assisted by Mr. Ramesh Chandra Dwivedi, learned counsel for the revisionist, Mr. Manish Goyal, learned Senior Counsel/ Additional Advocate General, assisted by Mr. Ashutosh Kumar Sand, learned Government Advocate for the State of U.P. and Mr. Pawan Kumar Singh, learned counsel for the respondent no. 2.

Factual matrix of the case

3- The facts that formed the bedrock of the present criminal revision are that the revisionist-Diwakar Nath Tripathi, has moved an application dated 20.07.2021 under Section 156(3) of Code of Criminal Procedure in the Court of Additional Chief Judicial Magistrate, Court No. 17, Allahabad with the allegations inter alia that:-

3.1- Shri Keshav Prasad Maurya by concealing facts obtained political and lucrative position on the basis of misrepresentation and forged documents. He, while contesting the Assembly Election of 2007 from Allahabad West Constituency, has disclosed that he has passed Prathma in the year 1986, Madhyama in the year 1988 and Uttama in the year 1998 from Hindi Sahitya Sammelan, Allahabad. In the year 2012, in the column of highest educational qualification, while Shri Keshav Prasad Maurya was contesting the Assembly Election from Sirathu Vidhan Sabha Constituency (Kaushambi) had disclosed that he passed B.A. in the year 1997 from Hindi Sahitya Sammelan, Allahabad. Similarly, false affidavit has been filed in the year 2014 Lok Sabha Election, Phoolpur Constituency and Vidhan Parishad Election.

3.2- The application further recounts that Shri Keshav Prasad Maurya has been allotted a petrol pump from Indian Oil Corporation Limited on the basis of forged educational documents. The said petrol pump is being operated in district Kaushambi in the name of Kamdhenu Filling Station.

3.3- It is also mentioned in the application that so far as the educational qualification is concerned, certificates of Prathma, Madhyama, Uttama Sahitya Ratna issued by Hindi Sahitya Sammelan are not considered as equivalent to High School, Intermediate and Bachelor (B.A.) degree respectively by Uttar Pradesh Government, UGC and NECT. Under the Right to Information Act, the Principal Secretary, Secondary Education has provided information on 01.08.2017 that Prathama,

Madhyama (Visharad) examination conducted by Hindi Sahitya Sammelan Allahabad was neither recognized in the past nor is recognized at present as equivalent to the High School and Intermediate examination of the Board of Secondary Education, U.P.

3.4- Shri Shri Keshav Prasad Maurya using the said certificate of Prathma of Hindi Sahitya Sammelan Allahabad has obtained the Petrol Pump.

3.5- Shri Keshav Prasad Maurya has submitted affidavits in different elections to the Election Commission, in which the educational qualification of the same class has been shown in different years, whereas the qualifying year/session of the same educational qualification is the same and not different. In this manner, a malicious attempt was made to obtain a public post by concealing facts in a wrong manner through fraudulent conduct and forged documents and he was successful too.

3.6- The documents made available to the revisionist under the Right to Information Act in respect of educational qualification of Keshav Prasad Maurya from the Indian Oil as well as from the Election Commission, in which the writing and signature of Keshav Prasad Maurya were found different. When the revisionist went to the Hindi Sahitya Sammelan along with the aforesaid documents and wanted to get second copy of Roll No. 3238 Samvat 2053 (1996) of Uttar Madhyama, second part (Sahitya Ratna), he was told by the official concerned that in Roll No. 3238 Samvat 2053 (1996), the name of Manju Singh, daughter of Lal Singh Chauhan is

recorded, which proved that the affidavit and the educational documents are forged and fabricated.

3.7- In the booklet issued by the Indian Oil, the qualification for allotment of petrol pump has been clearly mentioned as High School, but Shri Keshav Prasad Maurya by using his political influence on the basis of Prathma degree has got the petrol pump whereas he does not fulfil the conditions and qualifications for the allotment of the petrol pump.

3.8- It is further mentioned in the application that Shri Keshav Prasad Maurya on the basis of forged and fabricated documents are using and enjoying the public property which is very dangerous to the society and the country. The revisionist is very much hurt from the aforesaid act of shri Keshav Prasad Maurya and, therefore, prayed that strict penal action is required be taken against him.

3.9- For registration of first information report, the applicant sent an application on 19.07.2021 by registered post to the In-charge Inspector, Cantt., Senior Superintendent of Police, Prayagraj, Director General of Police, U.P. Lucknow, Principal Secretary (Home), U.P. Lucknow, Governor of U.P. Principal Secretary (Home) Ministry of Home, Government of India, New Delhi, but no action has been taken.

3.10-Being aggrieved by the inaction of the district administration, the revisionist has filed the application under Section 156(3) Cr.P.C. for registration of F.I.R. against respondent no. 2 and investigation of the case.

4- The learned Magistrate vide order dated 11.08.2021 directed the concerned Station House Officer to conduct a preliminary enquiry and submit his report.

5- Pursuant to the aforesaid order dated 11.8.2021, the police has submitted the a preliminary enquiry report 31.08.2021, which runs as under:

"The applicant has alleged that Shri Keshav Prasad Maurya has used the forged document before the Election Commission of India, for which the applicant should have made application for appropriate action before the Election Commission of India, who should have taken action if the record found forged. The applicant has alleged that opposite party has used the forged documents in the Indian Oil Corporation, for which the applicant should have made application before the Indian Oil Corporation so that action may be taken in case the documents found forged. The applicant has not produced any documents from Hindi Sahitya Sammelan to prove that the documents used by opposite party were forged and fabricated. The police report further mentions that the applicant has alleged that opposite party while residing in Alkapuri Colony has committed the said forgery, but it has not been mentioned that as to when and from whom he has got the said information. No documentary proof has been brought on record by the applicant in support of his application. "

6- Learned Additional Chief Judicial Magistrate, Allahabad after going through the record of the case as well as considering the report dated 31.08.2021 of the police, rejected the said application of the applicant vide order dated 04.09.2021.

7- Being aggrieved against the order dated 04.09.2021 rejecting his application under Section 156(3) Cr.P.C., the

revisionist approached this Court by filing this Criminal Revision (Defective) No. 576 of 2023. Since, this revision was filed with delay of 318 days, a Coordinate Bench of this Court vide order dated 01.02.2024 dismissed the revision on the ground of delay in filing the revision.

8- Dissatisfied with the dismissal of his revision on the ground of delay, the revisionist rushed to Hon'ble Supreme Court by filing Petition for Special Leave to Appeal (Crl) No. 6246 of 2024. Hon'ble Supreme Court vide order dated 06.01.2025 set aside the order of this Court dated 01.02.2024 and directed this Court to decide the revision on merits. The order of the Hon'ble Supreme Court reads as under:

"The petitioner has challenged the order dated 01st February, 2024 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Delay Condonation Application No. 1 of 2023 in Criminal Revision Defective No. 576 of 2023. Since the High Court has only dismissed the revision on delay, which is hardly a month's delay and there is cogent reason assigned by the petitioner that he was for a long period suffering from Dengue, the revision filed by the petitioner should have been heard and decided on merits.

Therefore, without going into the merits of the matter, we set aside the order of the High Court and dispose of this Special Leave Petition with a request to the High Court to decide the revision on merits.

Pending applications are disposed of. "

9- Pursuant to above order of the Hon'ble Apex Court, on 24.04.2025, the delay of 318 days in filing the instant criminal revision was condoned by this Court and office was directed to allot regular number to this criminal revision.

10- Thereafter on 06.05.2025 and 17.05.2025 following orders were passed by this Court.

(i) Order dated 06.05.2025

During the course of argument, it is pointed out by Shri A.K. Sand, learned Government Advocate that the revisionist had already preferred an application Under Section 482 No. 27198 of 2021, which has been dismissed vide order dated 24.11.2022.

On the joint request made by the learned counsel for the parties, let the case be listed on 17.05.2025 along with the record of Application U/s 482 No. 27198 of 2021.

(ii) Order dated 17.05.2025

During the course of argument, Mr. Manish Goyal, learned Additional Advocate General appearing for the State submits that revisionist has not come with clean hands before this Court because he has filed an undated application under Section 156 (3) Cr.P.C. and that too without its enclosures. He also pointed out that even incomplete order-sheet has been filed by the revisionist.

On putting query in this regard, learned counsel for the revisionist is speechless and could not give satisfactory reply. He prays for summoning of the original record.

In view of the above, let the original record of C.N.R. No. 2750/2021 (Misc. Case No. 102/XII/2021 - Diwakar Nath Tripathi Vs. Keshav Prasad Maurya), be summoned in a sealed envelop from the Court of Additional Chief Judicial Magistrate, Court No. 17, Prayagraj by the next date.

Office shall communicate this order to the District Judge, Prayagraj within 48 hours, who shall ensure compliance of this order.

On the joint request of learned counsel for the parties, let this matter be listed on 23.05.2025.

11- After receipt of original record, matter has been heard at length.

Submissions on behalf of the revisionist

12- Mr. Daya Shankar Mishra, learned Senior Counsel, appearing for the revisionist, assailing the impugned order dated 04.09.2021, strenuously argued that-

12.1- Since Shri Keshav Prasad Maurya (respondent no. 2) who is sitting Deputy Chief Minister of State of U.P., by concealing facts obtained political position on the basis of misrepresentation and furnishing forged documents with affidavit before the Election Commission in the year 2007, 2012 and 2014 and Indian Oil Corporation, which is a cognizable offence, therefore revisionist who is social worker and RTI activist is personally very hurt, hence he moved an application under Section 156 (3) Cr.P.C. dated 20.07.2021 seeking direction to lodge F.I.R. against respondent no. 2 but the same has been illegally rejected by the learned Magistrate vide impugned order dated 04.09.2021.

12.2- On the issue of locus-standi of the revisionist, Mr. Mishra relying upon the judgment of the Hon'ble Apex Court in the case of **A.R. Antulay v. Ramdas Srinivas Nayak and another**, (1984) 2 SCC 500, it is argued that though the revisionist has not been personally deceived by respondent no. 2, but he being citizen of this country is personally very hurt on furnishing forged documents with affidavit by respondent no. 2 before the Election Commission and Indian Oil Corporation, hence in the interest of society, he has equal locus-standi to set the criminal law in motion against

respondent no. 2 through an application under Section 156 (3) Cr.P.C. dated 20.07.2021.

12.3- Mr. Mishra elaborating his argument further submits that respondent no. 2, while contesting the Assembly Election of 2007 from Allahabad West Constituency has disclosed that he has passed 'Prathma' in the year 1986, 'Madhyama' in the year 1988 and 'Uttama' in the year 1998 from Hindi Sahitya Sammelan, Allahabad, whereas certificates of Prathma, Madhyama and Uttama Sahitya Ratna issued by Hindi Sahitya Sammelan are neither recognized nor considered as equivalent to High School, Intermediate and Bachelor (B.A.) degree respectively by Uttar Pradesh Government as per information provided by the Principal Secretary, Secondary Education on 01.08.2017 under the Right to Information Act. In this regard reliance has also been placed upon the judgment of the Hon'ble Apex Court in the case of **State of Rajasthan and Others v. Lata Arun**, (2002) 6 SCC 252, wherein the judgment in the case of Dr. Ravinder Nath vs. State of H.P. and Others [1993 Supp. (2) SCC 639] has been referred in which it has been observed that diploma/degree awarded by Hindi Sahitya Sammelan, Allahabad were recognized for the period from 1931 to 1967 only. Reliance has also been placed upon the Division Bench judgments of this Court in the case of **Urmila Devi v. State of U.P. and Another**, 2011 SCC OnLine All 1796, wherein it has been held inter-alia that Prathama and Madhyama (Visharad) (Examination) conducted by the Hindi Sahitya Sammelan are not equivalent to the High School and Intermediate

Examination conducted by the Board of High School and Intermediation Education of U.P.

12.4- It next submitted that in the year 2012, in the column of highest educational qualification, while respondent no. 2 was contesting the Assembly Election from Sirathu Vidhan Sabha Constituency (Kaushambi), has disclosed that he has passed B.A. in the year 1997 from Hindi Sahitya Sammelan, Allahabad and similarly, false affidavit has been filed in the year 2014 Lok Sabha Election, Phoolpur Constituency and Vidhan Parishad election. It is further submitted that in the documents which have been made available to the revisionist under the Right to Information Act in respect of educational qualification of Shri Keshav Prasad Maurya from the Indian Oil as well as from the Election Commission, his writing and signatures were found different.

12.5- When revisionist tried to get second copy of Roll No. 3238 Samvat 2053 (1996) of Uttar Madhyama, second part (Sahitya Ratna), he was told by the official concerned of Hindi Sahitya Sammelan, Allahabad that in Roll No. 3238, Samvat 2053 (1996), the name of Manju Singh, daughter of Lal Singh Chauhan is recorded.

12.6- Much emphasis has been given by contending that respondent no. 2 even without fulfilling the conditions and eligibility criteria has also obtained a petrol pump in district Kaushambi from Indian Oil Corporation Limited using the forged educational certificate of 'Prathma 1986' of Hindi Sahitya Sammelan, Allahabad, which is not recognised as equivalent to High School.

12.7- Advancing his submission on the object of calling police report, it is submitted that purpose of calling police report on the application under Section 156 (3) Cr.P.C. is only to know whether any F.I.R. has already been register or not. In the present case police has submitted detail report dated 31.08.2021, which is against the intent of the law.

12.8- It is also argued that respondent no. 2 being prospective accused has no locus-standi to be heard at this stage in the present criminal revision, hence at this stage he should not be given an opportunity of hearing in the matter which is against the order of rejection of application under Section 156 (3) Cr.P.C. of the revisionist.

12.9- On the strength of aforesaid submissions, lastly it is submitted that the allegations made in the application under Section 156 (3) Cr.P.C. disclose the commission of cognizable offence, therefore impugned order dated 04.09.2021 is liable to be set-aside and considering the nature of allegations proper investigation by the police is required after registration of F.I.R. against respondent no. 2. In support of above submissions, reliance has been placed upon the judgments of the Hon'ble Apex Court in the cases of **Pradeep Nirankarnath Sharma v. State of Gujarat and Others**, 2025 SCC OnLine SC 559 and **Imran Pratapgadhi v. State another**, 2025 SCC OnLine SC 678. In both the above judgments, the law laid down in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and others (2014) 2 SCC 1** on Section 154 of the Code has been discussed and considered. The relevant

paragraph 120 of the said decision containing conclusions/directions reads thus :

"120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further." [Emphasis supplied]"

Submissions on behalf of State

13- Per contra Mr Manish Goyal, learned Additional Advocate General for the state of U.P./respondent no.1, refuting the aforesaid argument of learned counsel for the revisionist submits that:-

13.1 -Under the facts of the case, the application filed by the revisionist under Section 156(3) Cr.P.C is not maintainable.

13.2- The Revisionist in his application under Section 156(3) Cr.P.C. dated 20.07.2021 has alleged that respondent no. 2 submitted documents with fraudulent and deceitful intent by misrepresenting his educational qualifications in affidavits filed during Legislative Assembly elections held in 2007, 2012,

and Lok Sabha Election held in 2014, whereas the contents of the application suggests that the discrepancies in the educational qualification's declaration may stem from errors or misunderstandings, rather than deliberate falsification. In this regard reliance is placed upon Section 25 of IPC, which defines the term "Fraudulently" which means *"a person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise."* Hence the said application fails to set out the ingredients of the aforesaid offences, as the common ingredient of 'intent' stands missing from the aforesaid application.

13.3- Though no specific section of I.P.C. for the alleged offence is mentioned in the application, but allegations made in the application under Section 156(3) Cr.P.C. pertain to offences such as cheating, forgery, and fraud, thereby invoking the provisions of Sections 420, 463, 464, and 471 of the Indian Penal Code, 1860, whereas from the contents of the said application, basic ingredient of 'intent' and other required ingredients to constitute the aforesaid offences against respondent no. 2 are lacking. As such the application fails on substantive and procedural grounds also.

13.4- The allegations made in the application do not disclose the commission of any electoral offence or cognizable offence, as no offence is made out upon a plain reading of the application under 156 (3) Cr.P.C.

13.5- In support of the above submissions, reliance has been placed upon the following judgments of the Hon'ble Apex Court:-

(i)-**Hridaya Ranjan Prasad Verma v. State of Bihar**, (2000) 4 SCC 168. In this case Hon'ble Apex Court interpreted Sections 415 and 420 of IPC to hold that fraudulent or dishonest intention is a precondition to constitute the offence of cheating. The relevant extract from the judgment reads thus:

"14. On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest."

(ii)-**International Advanced Research Centre For Powder Metallurgy and New Materials (ARCI) and others Vs. Nimra Cerglass Technics (P) Ltd.**, (2016) 1 SCC 348. In this case Hon'ble Supreme Court held that in order to attract Section 420 I.P.C., there is need to establish dishonest intention. The relevant portion thereof is quoted herein below:-

15. The essential ingredients to attract Section 420 IPC are : (i) cheating; (ii) dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into a valuable security; and (iii) mens rea of the accused at the time of making the inducement. The making of a false representation is one of the essential ingredients to constitute the offence of cheating under Section 420 IPC. In order to bring a case for the offence of cheating, it is not merely sufficient to prove that a false representation had been made, but, it is further necessary to

prove that the representation was false to the knowledge of the accused and was made in order to deceive the complainant.

(iii)-**Vimla (Dr.) Vs. Delhi Admn, 1962 SCC OnLine SC 172**, wherein Hon'ble Apex Court has settled the law about the offence under Section 463 and 464 I.P.C. The relevant portion thereof is quoted herein below:-

"5. Before we consider the decisions cited at the Bar it would be convenient to look at the relevant provisions of the Indian Penal Code.

Section 463 : Whoever makes any false document or part of a document with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Section 464 : A person is said to make a false document- First-- Which dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document/or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed; or

" * **

The definition of "false document" is a part of the definition of "forgery". Both must be read together. If so read, the ingredients of the offence of forgery relevant to the present enquiry are as follows, (1) fraudulently signing a document or a part of a document with an intention of causing it to be believed that such document or part of a document was signed by another or under

his authority; (2) making of such a document with an intention to commit fraud or that fraud may be committed. In the two definitions, both mens rea described in s.464 i. e., "fraudulently" and the intention to commit fraud in s. 463 have the same meaning. This redundancy has perhaps become necessary as the element of fraud is not the ingredient of other intentions mentioned in s. 463. The idea of deceit is a necessary ingredient of fraud, but it does not exhaust it; an additional element is implicit in the expression. The scope of that something more is the subject of many decisions. We shall consider that question at a later stage in the light of the decisions bearing on the subject. The second thing to be noticed is that in s. 464 two adverbs, "dishonestly" and "fraudulently" are used alternatively indicating thereby that one excludes the other. That means they are not tautological and must be given different meanings. Section 24 of the Penal Code defines "dishonestly" thus :

"Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing dishonestly".

"Fraudulently" is defined in s. 25 thus:

"A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise".

The word "defraud" includes an element of deceit. Deceit is not an ingredient of the definition of the word "dishonestly" while it is an important ingredient of the definition of the word "fraudulently". The former involves a pecuniary or economic gain or loss while the latter by construction excludes that element. Further) the juxtaposition of the two expressions "dishonestly" and "fraudulently" used in the various sections of the Code indicates their close affinity and therefore the definition of one may give colour to the other. To illustrate, in the definition of "dishonestly", wrongful gain or wrongful loss is the necessary element. So too, if the expression "fraudulently" were to be held

to involve the element of injury to the person or persons deceived, it would be reasonable to assume that the injury should be something other than pecuniary or economic loss. Though almost always an advantage to one causes loss to another and vice versa, it need not necessarily be so. Should we hold that the concept of fraud" would include not only deceit but also some injury to the person deceived, it would be appropriate to hold by analogy drawn from the definition of "dishonestly" that to satisfy the definition of "fraudulently" it would be enough if there was a non- economic advantage to the deceiver or a non-economic loss to the deceived. Both need not co-exist.

(iv)-Mohammad Ibrahim and others Vs. State of Bihar and another, (2009) 8 SCC 751, wherein Hon'ble Apex Court has elaborately discussed and laid down the ingredients of offence under Section 463, 464, 467 and 471 IPC mentioning inter-alia that forgery as defined under Section 463 I.P.C. in turn depends upon creation of a 'false document' as defined under Section in Section 464 I.P.C. A person is said to have made a "false document", if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses.

If there is no false document, offences under Section 467 and 471 I.P.C. are also not made out.

13.6- Based on the averments in the application under Section 156(3) Cr.P.C., maximum the provisions of Section 125A of the Representation of the People Act, 1951 is attracted, concerning the alleged filing of a false affidavit before Election Commission.

13.7- Referring Section 125A of the Representation of People Act, 1951 much emphasis has been given by contending that for the alleged offences pertain to misrepresentation and false affidavits submitted by respondent no. 2 before the Election Commission in the year 2007, 2012 and 2014, the application under Section 156 (3) Cr.P.C. against respondent no. 2 was filed in July 2021 after a long gap of approximately 13, 9 and 7 years respectively, hence the relief sought by means of application under Section 156(3) Cr.P.C. is also hit by Section 468 of Cr.P.C. because Section 125A prescribes imprisonment up to six months (less than one year), therefore applicable limitation period under Section 468(2)(b) Cr.P.C. would be one year.

13.8- It is also vehemently argued that it is trite law, for an offence of cheating and forgery legal doctrine requires an actual deceived party but in the present case, no victim exists, and the revisionist not being the deceived party lacks locus standing to file either application under Section 156(3) or the instant criminal revision.

13.9- The complainant/revisionist, being a third party, has not demonstrated any direct, personal, or specific injury sustained as a result of the alleged educational qualification discrepancies in the affidavit of respondent no. 2.

13.10- It is also pointed out that neither the Election Commission nor rival candidate or the Indian Oil Corporation is a party in the instant Criminal Revision before this Hon'ble Court. The Revisionist cannot register a private complaint concerning offences of the nature described above, as this

responsibility falls within the purview of the aggrieved parties who have allegedly been misled by respondent No. 2.

13.11- Regarding allegations to get dealership by respondent no. 2 from Indian Oil Corporation showing qualifications from Hindi Sahitya Samelan, Allahabad as equivalent to high school is concerned, it is submitted that the mere difference between Hindi Sahitya Sammelan qualifications and high school equivalency demonstrates a potential interpretative error or administrative inconsistency rather than a deliberate fraud on the part of respondent no. 2.

13.12- The question whether Hindi Sahitya Sammelan certifications are equivalent to high school qualifications represents an administrative or regulatory dispute about credential interpretation that may be resolved by educational authorities, not through criminal allegations of fraud.

13.13- The revisionist fails to establish that the respondent no. 2 knowingly mis-characterised his qualifications, as the differences appeared in public documents filed with various authorities, suggest open interpretation rather than concealment or deception.

13.14- Furthermore, the grant of dealership was carried out in accordance with the modalities prescribed by the Indian Oil Corporation. Consequently, no criminal liability for fraud or forgery is made out and no cognizable offence is disclosed.

13.15- Lastly, it is submitted that in view of what has been argued as noted herein above, the instant Criminal Revision lacks of merits and is liable to be dismissed.

Submissions on behalf of the respondent no.2

14- Mr. Pawan Kumar Singh, learned advocate appearing for the respondent no. 2 adopted the argument raised on behalf of the State. However in addition he submits that:-

14.1- The respondent no.2 being a prospective accused has right to be heard in view of the provisions of Section 401 (2) Cr.P.C. In this regard he placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Manharbhai Muljibhai Kapadia and another Vs. Shaileshbhai Mohanbhai Patel and others**, (2012) 10 SCC 517, wherein in paragraph 48, in the context of a revision against an order dismissing a complaint under Section 203 of the Code, the provisions of sub-section (2) of Section 401 of the Code were interpreted as under:

"48. by virtue of Section 401(2) of the Code, the suspects get right of hearing before revisional court although such order was passed without their participation. The right given to "accused" or "the other person" under Section 401(2) of being heard before the revisional court to defend an order which operates in his favour should not be confused with the proceedings before a Magistrate under Sections 200, 202, 203 and 204. In the revision petition before the High Court or the Sessions Judge at the instance of complainant challenging the order of dismissal of complaint, one of the things that could happen is reversal of the order of the Magistrate and revival of the complaint. It is in this view of the matter that the accused or other person cannot be deprived of hearing on the face of express provision contained in Section 401(2) of the Code. The stage is not important whether it is pre-process stage or post process stage."
(emphasis supplied)

14.2- The aforesaid decision of the Apex Court in the case of **Manharbhai Muljibhai Kapadia** (supra) has been further considered and followed by the Apex Court in the case of **Santhakumari and others Vs. State of Tamil Nadu and another**, (2023) 15 SCC 440, wherein order of the High Court in Criminal Revision whereby the revision of the complainant against an order of the learned Magistrate dismissing his application under Section 156(3) CrPC has been allowed without giving opportunity of hearing to proposed accused and a direction has been issued to register F.I.R. against the appellants, was the subject matter of challenge. The short issue was raised on behalf of the appellant that while exercising revisional power, the High Court in compliance of the provisions of sub-section (2) of Section 401 of the Code should have given opportunity of hearing to proposed accused as they would be the persons to be prejudiced by the order. The Apex Court in the light of law laid down in previous judgments in the case of **Manharbhai Muljibhai Kapadia** (supra) and **Balmanohar Jalan Vs. Sunil Paswan**, (2014) 9 SCC 640 allowed the appeal setting aside the order of the High Court and matter was remitted back to the High Court to decide the revision afresh in accordance with law.

14.3- Referring the Full Bench decision of this Court in the case of **Jagannath Verma & others v. State of U.P. & another** A.I.R. 2014 ALLAHABAD 214 (Full Bench), it is further submitted that in the said case following question was referred for consideration:-

“Whether an order made under Section 156(3) of the Code of Criminal Procedure, 1973 Code is an interlocutory order and the remedy of a revision against such an order is barred under sub-section (2) of Section 397.”

In the light of aforesaid reference, the Full Bench has framed following two additional questions for consideration by a Larger Bench :

“(i) Whether an order made under Section 156(3) of the Code rejecting an application for a direction to the police to register and investigate, is revisable under Section 397; and

(ii) If the answer to Question (1) is in the affirmative, then, whether in a revision filed against an order rejecting an application under Section 156(3), the prospective accused is also a necessary party and is required to be heard before a final order is passed.”

The Full Bench has answered the reference holding that :

(i)

(ii) An order of the Magistrate rejecting an application under Section 156(3) of the Code for the registration of a case by the police and for investigation is not an interlocutory order. Such an order is amenable to the remedy of a criminal revision under Section 397; and

(iii) In proceedings in revision under Section 397, the prospective accused or, as the case may be, the person who is suspected of having committed the crime is entitled to an opportunity of being heard before a decision is taken in the criminal revision.

14.4- Much emphasis has been given by contending that revisionist in the application under Section 156 (3) Cr.P.C. and his affidavit has disclosed his identity as social worker and R.T.I. activist but in support of this averment he has neither disclosed any social work done by him nor did mention that in which other matters he has ever obtained information under the R.T.I. Act. The reason is obvious that the revisionist is neither social worker nor the R.T.I. activist. The affidavit of the revisionist in this regard is false.

14.5- In the affidavit revisionist has also mentioned that he is personally hurt, which itself indicates that revisionist has filed the application under Section 156 (3) Cr.P.C. against respondent no. 2 with ulterior motive in order to settle his personal score.

14.6- So far as educational certificate of respondent no. 2 is concerned, it is submitted that whatever certificate was issued by the Hindi Sahitya Sammelan to respondent no.2, he has submitted to the Election Commission and Indian Oil Corporation, hence there is no question of forgery of any kind or submission of false information or document before the Election Commission.

14.7- So far as issue as to whether the certificate of 'Prathma' and 'Madhya' (Visharad) issued by the Hindi Sahitya Sammelan is recognized as equivalent to High School or Intermediate is concerned, it is argued that if the said examination/certificate is not recognized by the State Government, then it may be an unrecognised document, but cannot said to be a forged or false document as it is admitted

fact that the same has been issued by Hindi Sahitya Sammelan.

14.8- It is also pointed out that the revisionist has come up with a stand that certain documents, on which he is relying upon has been given to him by Indian Oil Corporation and Election Commission under Right to Information Act whereas no such documents have been provided to the revisionist by the Indian Oil Corporation and Election Commission. The affidavit of the revisionist in this regard is also false.

14.9- So far as stand of the revisionist that when he tried to obtain the duplicate copy of certificates of Roll No. 3238 Samvat 2053 (1996) of of Uttar Madhyma, second part (Sahitya Ratna) of the respondent no. 2, then employee of Hindi Sahitya Sammelan informed him that at Enrolment No. 3238 of respondent no. 2 name of Manju Singh has been shown. But neither the name of concerned employee has been disclosed nor the date and specific source of information has been mentioned. Even said certificate of Uttar Madhyma, second part (Sahitya Ratna) of Hindi Sahitya Sammelan was neither filed with Election Commission nor with Indian Oil Corporation. It is admitted fact that respondent no. 2 submitted the certificate of "Prathma" only issued by Hindi Sahitya Sammelan before both the above authorities.

14.10- At the end to sum-up his submission, it is emphatically argued that action of the revisionist is not bonafide but malicious with ulterior motive only to maline the political image of the respondent no.2 and to cause irreparable loss

and injury to him, hence this revision is liable to be rejected with heavy cost upon the revisionist.

Discussion about object of Section 156(3) Cr.P.C.

15- Here it would not be out of place to mention that it well settled that the duty cast upon the learned Magistrate, while exercising power under Section 156(3) Cr.P.C., cannot be marginalized. To understand the real purport of the same, this Court thinks it apt to reproduce the said provision:

"156. Police officer's power to investigate cognizable case.

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned."

16- Before delving into the matter, it would be apposite to mention the object and scope of the provisions under Section 156 (3) CrPC, which are as follow:-

16.1- There is no dispute that on receiving application under Section 156 (3) CrPC, three courses are open to Magistrate. He may either take cognizance under 190 Cr.P.C or may forward the application to the police under Section 156 (3) Cr.P.C for investigation or he may dismiss the application having baseless or false allegation, therefore such discretionary power ought to have been exercised cautiously

with due application of judicial mind only on reasons and not in a routine or mechanical manner. If Magistrate is prima facie of the view that allegations made in the application constituted commission of cognizable offence requiring thorough investigation, only then he may direct the police to register the case and investigate the same.

16.2- The word "may" occurring in Section 156(3) CrPC is of utmost significance. It gives the Magistrate a discretionary power to order or not for an investigation into the cognizable offence disclosed in the application. This discretionary power has been given to Magistrate to enable them to deal adequately with both types of the applications (i) the genuine application containing truthful allegations about the commission of cognizable offence, and (ii) the applications having baseless or false allegation on the face of record. It is the duty of the Magistrate to make it a point that no applicant of later category may succeed in his wicked game. His application need to be dismissed with firmness and boldness. At the same time it is the pious duty of the Magistrate to ensure that no case of the former category may go uninvestigated. The Magistrates are thus saddled with a grate responsibility to keep such balance.

16.3- The application of judicial mind by the Magistrate while exercising power under Section 156(3) Cr. P.C. is of utmost importance not only to assess the disclosure of commission of cognizable offence but to rule out the possibility of harassment by unscrupulous elements by making bald allegations. The aforesaid view is fortified by the judgement

of Full Bench of this Court in **Rambabu Gupta vs. State of U.P.**, 2001 CrLJ 3363 Allahabad (Full Bench).

16.4- The Magistrate has to be satisfied as to the need of investigation in the matter taking into consideration the guidelines laid down by the Hon'ble Apex Court in this regard (for example, the cases of *Lalita Kumari v. Govt of UP & Others* 2014 (2) SCC 1, *Mrs. Priyanka Srivastava and another Vs. State of U.P. and others*, (2015) 6 SCC 287, *Usha Chakraborty & another v. State of West Bengal & Another*, (2023) 15 SCC 135, *Kailash Vijayvargiya v. Rajlakshmi Chaudhuri and Others*, (2023) 14 SCC 1, etc).

16.5- If the allegations are vague and non-specific, the directions may not be issued for registration of FIR. In this regard here it would also be useful to refer the Judgment of the Hon'ble Apex Court in the case of **Usha Chakraborty & another v. State of West Bengal & Another**, (2023) 15 SCC 135 wherein it has been held inter-alia that there cannot be any doubt with respect to the position that in order to cause registration of an F.I.R. and consequential investigation based on the same the petition filed under Section 156 (3) Cr.P.C. must satisfy the essential ingredients to attract the alleged offences. In other words, if such allegations in the petition are vague and are not specific with respect to the alleged offences it cannot lead to an order for registration of an F.I.R. and investigation on the accusation of commission of the offences alleged.

16.6- Though the provision of Section 156(3) Cr.P.C. empowers a Magistrate to direct the police to register a case

and investigate but the same can be used in the appropriate cases only and said power cannot be permitted to be abused as sought by the complainant.

16.7- The power under Section 156(3) Cr.P.C. to issue direction to register F.I.R. and investigate the case should not be invoked at whims and fancies of the complainant and the locus standi of the complainant, if made on behalf of another person or with oblique motive can also be looked into by the Magistrate as settled by the Hon'ble Apex Court in the case of **Mrs. Priyanka Srivastava and another v. State of U.P. and others**, (2015) 6 SCC 287.

16.8- Merely alleging disclosure of cognizable offence may not be sufficient to issue directions under Section 156(3) Cr.P.C. if the same lacks credibility and is bereft of necessary details, otherwise this may be an agonizing way of harassment of any person who may be innocently framed and prosecuted.

17- Hear it would be relevant to epitomise the salient findings recorded by the learned Magistrate in the impugned order while dismissing the application under Section 156 (3) Cr.P.C., which are as under:-

17.1- Revisionist has claimed that respondent no.2 has forged the mark-sheet of Uttama, second part of Hindi Sahitya Sammelan but he has neither filed attested copy of mark-sheet of Uttama, second part of Hindi Sahitya Sammelan of respondent no.2 nor of Manju Singh along with the application nor produced the same for perusal in order to establish that same are actually in existence or not.

17.2- Keeping degree of Hindi Sahitya Sammelan by any person is not an offence.

17.3- The process of allotment of petrol pump and on the basis of which educational qualification it is allotted is a matter of jurisdiction of Indian Oil Corporation.

17.4- If there has been any loss due to the violation of any rule, then it happened to Indian Oil Corporation and not to any other person.

17.5- No averment has been made by the revisionist in his application as to whether any application was given by him to Indian Oil Corporation or any action was taken by Indian Oil Corporation.

17.6- The third allegation has been leveled by the revisionist that respondent no.2 in the assemble election 2007 and 2012 had given false affidavit before the Election Commission. In this regard no averment has been mentioned by the revisionist in his application as to whether any application was given by him before the Election Commission or not.

17.7- Allegations of the revisionist do not come within the ambit of Section 156 (3) Cr.P.C.

17.8- Following the principle of law laid down by the Hon'ble Supreme Court and High Courts, it has been observed that order for registering F.I.R. should not be made mechanically in routine manner but should be made applying judicial mind.

17.9-Prima facie, no cognizable offence is shown to have been committed, hence application under Section 156 (3) Cr.P.C. is baseless and deserve to be dismissed.

Analysis

18- Having heard the learned counsel for the parties and perusing the record, I find that:-

18.1- Revisionist is not personally affected from the educational certificate of 'Prathma', 'Madhyama' and 'Uttama' of respondent no. 2 issued in the year 1986, 1988 and 1998 from Hindi Sahitya Sammelan, Allahabad.

18.2- Regarding the issue of locus-standi, the stand of the revisionist is that although he is not affected by the affidavit of respondent no. 2 submitted before the Election Commission in the year 2007, 2009 and 2014 as well as furnishing information before the Indian Oil Corporation, but he is personally hurt by the act and conduct of respondent no. 2, therefore in the larger interest of society he is running from pillar to post to get the F.I.R. lodged against respondent no.2.

18.3- Revisionist claims himself to be a social worker and RTI activist, whereas he has not filed any document on record with regard to his social work. So far as his claim that he is RTI activist is concerned, there is no material on record to indicate that revisionist is RTI activist and he had obtain information under under R.T.I. Act about people other than respondent no. 2 and made effort to get the F.I.R. lodged against any other person before filing application dated

20.07.2021 under Section 156 (3) Cr.P.C. against respondent no. 2.

18.4- It is not the case of the revisionist that said certificates of 'Prathma', 'Madhyama' and 'Uttama' have not been issued by Hindi Sahitya Sammelan, Allahabad to respondent no. 2.

18.5- Neither the Election Commission nor the Indian Oil Corporation provided any document relating to respondent no. 2 to the complainant/revisionist.

18.6- The revisionist in application under Section 156 (3) Cr.P.C. dated 20.07.2021 has not disclosed the date of his knowledge and source of information about the educational certificates of the respondent no.2.

18.7- There is no complainant of Smt. Manju Singh against respondent no. 2 and she has not been impleaded by the revisionist in array of the parties.

18.8- Revisionist has not filed any complaint/representation before the Election Commission and Indian Oil Corporation with regard to filing of alleged forged and false educational certificates of Prathma, Madhyama and Uttama by respondent no. 2. Even no correspondence has been made in this regard from Hindi Sahitya Sammelan, Allahabad.

19- Now this court proceeds to deal with the main allegations of the revisionist against respondent no. 2. The moot question is whether the allegations in the aforesaid application under Section 156 (3) Cr.P.C. disclose any cognizable offence and are sufficient to constitute the alleged offences. Here at the outset, it is relevant to note that specific

Section of any offence under Indian Penal Code or under any other law for the time being in force is not mentioned in the application.

20- The main grievance of the revisionist is that respondent no. 2 obtained political position on the basis of misrepresentation and furnishing forged educational certificate of Prathma, Madhyama, Uttama Sahitya Ratna of Hindi Sahitya Sammelan with affidavit before the Election Commission while contesting Assembly Election in the year 2007, 2012 and Lok Sabha Election 2014. In this regard, it is relevant to mention that tenure of aforesaid Assembly Election held in the year 2007, 2012 and Lok Sabha Election held in the year 2014 had already expired prior to moving application under Section 156 (3) Cr.P.C dated 20.07.2021 by the revisionist. Apart from this it is specific case of respondent no. 2 that whatever certificate was issued by the Hindi Sahitya Sammelan to him, he has submitted to the Election Commission and Indian Oil Corporation, hence there is no question of forgery of any kind. From the contents of paragraph no. 5 of the application under Section 156 (3) Cr.P.C. as well as paragraph no. 6 of the affidavit of the revisionist filed in support of the application, it clear that the revisionist has admitted the fact that Hindi Sahitya Sammelan, Allahabad has issued said certificates of 'Prathma', 'Madhyama' and 'Uttama' to respondent no. 2, hence the said documents cannot said to be forged or false document prepared by respondent no. 2. Even assuming that respondent no. 2 had given false declaration or affidavit at the relevant point of time before the Election Commission,

then also said allegation will not traverse Section 125A of the Representation of the People Act, 1951, which read thus:-

125A. Penalty for filing false affidavit, etc.—

A candidate who himself or through his proposer, with intent to be elected in an election,—

(i) fails to furnish information relating to sub-section (1) of section 33A; or

(ii) gives false information which he knows or has reason to believe to be false; or

(iii) conceals any information, in his nomination paper delivered under sub-section (1) of section 33 or in his affidavit which is required to be delivered under sub-section (2) of section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

21- It hardly needs to be reiterated that it is well settled that every law is designed to facilitate end of justice and not to frustrate it. The submission made by Mr. Manish Goyal, learned Additional Advocate General for the state on the issue of limitation, in view of the provision of Section 468 Cr.P.C, that complaint, if any against respondent no. 2 could be filed only within a period of one year from the date of filling affidavit by respondent no. 2 before the Election Commission seem to be preponderous in view of provision of Section 125A of the Representation of the People Act, 1951.

22- The Representation of People Act, 1951 is a complete and self contained Code. Where a right or liability is created by a statute which gives a special remedy for enforcing it, remedy provided by that statute only must be availed of.

23- Now it is also necessary to discuss Section 468 Criminal Procedure Code, 1973 which deals with bar of taking cognizance after lapse of the period of limitation reads thus:

468 Cr.P.C.

"(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2)The period of limitation shall be -

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."

24- On the aforementioned issue of limitation, it would be useful to refer the judgment of the Hon'ble Apex Court in the case of **Sarah Mathew Vs. Institute of Cardio Vascular Diseases** (2014) 2 SCC 62, wherein the Constitution Bench after wholesome treatment and discussing every aspect of the matter in detail regarding the applicability of Section 468 Cr.P.C. has held as under:-

51. "we hold that for the purpose of computing the period of limitation under Section 468 Cr.P.C. the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance."

25- The aforesaid Constitution Bench of the Hon'ble Apex Court in the case of Sarah Mathew (supra) has been further considered and followed in the case of **Amritlal Vs. Shantilal Soni and others** (2022) 13 SCC 128.

26- Any certificate being forged and any certificate not being recognised as equivalent to High School are two different things and will have different effect. In the present case the main thrust of argument on behalf of revisionist is that educational certificates (Prathma, Madhyma and Uttama Sahitya Ratna) of respondent no. 2 issued by Hindi Sahitya Sammelan, Allahabad are not considered as equivalent to High School, Intermediate and Bachelor, therefore submission of said documents by respondent no. 2 before the Election Commission and Indian Oil Corporation amounts to an offence of forgery is not liable to be accepted and has no legal force. If there is no forgery in any document or educational certificate and the same has been issued by the office of authority concerned under seal and signature, then said document or educational certificate cannot said to be a forged document. If there is no forgery, the document cannot said to be a false document irrespective of the issue whether it is recognised under the law or not and this situation cannot lead to criminal action under the I.P.C. or BNS, 2023. The issue is purely civil in nature and cannot be permitted to give colour of criminal one.

27- Another grievance of the revisionist is that respondent no. 2 has also obtained a retail outlet from Indian Oil Corporation on the basis of degree of Prathma 1986 of Hindi Sahitya

Sammelan, which is not considered as equivalent to High School by Uttar Pradesh Government, it is relevant to mention that whether respondent no. 2 has validly obtained the retail out-let or not is not a matter of criminal action at this stage. For the said purpose Indian Oil Corporation is the competent authority to look into the matter, in case any grievance is raised before it. The revisionist has not preferred any representation against the allotment of retail outlet before the Indian Oil Corporation. Under the facts of the case, he cannot be allowed to drag respondent No. 2 in a criminal prosecution for an action which is essentially civil in nature.

28- In paragraph No. 10 of the application dated 20.07.2021, under section 156(3) Cr.P.C., as well as in paragraph No. 4 of the affidavit filed in support of this revision, it is mentioned that revisionist had sent the application to the concerned police authorities for registration of FIR through registered post on 19.07.2021, but the revisionist instead of receipts dated 19.07.2021 of registered post, has filed the receipts dated 14.07.2021 of registered post before the learned Magistrate which do not corroborate from the averment made in the application dated 20.07.2021 under Section 156 (3) CrP.C., hence the same creates doubt. As such said averment does not inspire confidence.

29- On perusal of original record, I also find that no date has been mentioned in the said application which is alleged to have been sent by the revisionist to the police authorities.

30- Even the instant criminal revision has been preferred before this Court without annexing complete documents of this case with vague averment.

31- On one hand argument was raised on behalf of the revisionist that proposed accused has no right to be heard at this stage, but on the other hand revisionist himself has impleaded the proposed accused as respondent no. 2. The argument on behalf of the revisionist that proposed accused has no right to be heard at this stage has no leg to stand in the light of judgement of the Hon'ble Apex Court in the case of **Santhakumari and others Vs. State of Tamil Nadu and another** (supra) and Full Bench of this Court in the case of **Jagannath Verma & others v. State of U.P. & another** (supra).

32- There is no dispute about the ratio of law laid down by the Hon'ble Apex Court in judgments cited on behalf of the revisionist, but this Court is of the view that every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect. The judgments relied upon on behalf of revisionist are distinguishable on facts, hence not helpful to him.

33- Considering the over all facts and circumstances of the case in totality, it appears that revisionist is pretentiously aggrieved but potentially dangerous. There is no force in the contention urged on behalf of the revisionist that respondent no. 2 has forged his educational certificate and filed before the Election Commission and Indian Oil Corporation. In view of the above discussion the allegations made in the

application under Section 156 (3) Cr.P.C. of the revisionist even if they are taken at their face value do not constitute the cognizable offence.

34- The complainant-revisionist is not a person deceived by respondent no. 2, therefore, in view of Section 39 Cr.P.C, he had no locus to move an application under Section 156 (3) Cr.P.C. seeking direction to register FIR regarding alleged offence of cheating and forgery which are not covered under Section 39 of Cr.P.C.

35- The wheels of criminal justice system cannot be permitted to be clogged by frivolous complaints where complainant himself is not aggrieved or victim in any manner.

36- The proceedings appear to be prima facie initiated maliciously by the revisionist with oblique motives with an intention to gain some advantage or to settle his score.

37- Under the facts of the case, the prayer made by the revisionist for direction to register an FIR against respondent no. 2 and investigate defy any logic or prudence. Hence, in the backdrop of factual matrix of the case as discussed above, allowing the application under Section 156 (3) Cr.P.C of the revisionist would amounts to travesty of justice.

Conclusion

38- In view of the above, the allegations of the complainant (revisionist-Diwakar Nath Tripathi), who is admittedly neither victim nor aggrieved with the educational certificates of respondent no. 2 (Keshav Prasad Maurya, who is sitting Deputy Chief Minister of State of U.P.) do not disclose

cognizable offence, hence this criminal revision is liable to be rejected.

39- As a fall out and consequence of above discussion and reasons, I find that the impugned order dated 04.09.2021 is based upon relevant considerations and supported by cogent reasons, the same does not suffer from any irregularity, illegality or jurisdictional error, hence no interference is required by this Court.

40- This Criminal Revision lacks merit and stands **rejected**.

41- Office is directed to transmit the original record to the concerned Court below in a sealed cover.

Order Date: 07.07.2025

Ishrat