

**(2013) 02 AHC CK 0223**

**In the Allahabad High Court**

**Case No : Criminal Miscellaneous No. 129 of 2013**

Farhatullah Khan and Virendra Kumar Shukla

APPELLANT

Vs

State of U.P. and Sri. J.D. Mitra, the then Regional Higher  
Education Officer, Lucknow

RESPONDENT

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**Date of Decision : 07-02-2013**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 239, 482  
Penal Code, 1860 (IPC) — Section 420

**Citation : (2013) 02 AHC CK 0223**

**Hon'ble Judges : Vishnu Chandra Gupta, J**

**Bench : Single Bench**

**Advocate : Ziauddin Khan, for the Appellant;**

**Final Decision : Dismissed**

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## **Judgement**

Vishnu Chandra Gupta, J.—Heard learned Counsel for the petitioner and learned AGA. By means of this petition u/s 482 Cr. P.C. petitioners have prayed for setting aside the judgment and order dated 19.11.2012 passed by the Additional Sessions Judge-Ex Cadre, Bahraich in Criminal Revision No. 257 of 2003 (Farhatullah Khan and others Vs. State of U.P. And another) as well as the order dated 11.06.2003 passed by the Civil Judge (Senior Division)/ Additional Chief Judicial Magistrate, Bahraich.

2. Challenge in this petition is the order rejecting the application for discharge moved by petitioners u/s 239 of the Criminal Procedure Code by the learned Magistrate and the revisional order by which the order of magistrate was upheld.

3. In this case the prosecution case in brief is that the accused persons are managing a degree college namely Nanpara Degree College and published an advertisement for admission in the college. It is after this advertisement the Faizabad University published a news article extending warning to all the students that the aforesaid institution is not affiliated with the university and alleged degree college cannot imparted education of degree classes. It is also

found that college has taken the admission of the students in the sessions for which the institution was not affiliated with any university.

4. It has been submitted by counsel for petitioner that the correspondence for recognition/ affiliation is going on and the same has not yet been refused as is evident from the papers filed by the petitioners.

5. Learned AGA submitted that till date no affiliation of college with any university has been shown by petitioner.

6. The documentary evidence was considered by the court while rejecting the application. The invitation for admission in degree class made through publication by the accused certainly comes within the meaning of deceiving person fraudulently. Prima facie, it appears from the material on record that the accused persons dishonestly induces students to take admission and to deliver the money for taking admission to the accused person managing and running the unaffiliated college. Whereby, the accused person caused damage and harm to the students who took admission in the college and as such all the necessary ingredients of Section 420 IPC are made out. The trial court, thus, rightly framed the charges and revisional court rightly dismissed the revision.

7. The document filed by the petitioner before this Court are not sufficient to negate the verdict given by the trial court for framing of charges, because these document at the most constitute defence of the petitioners/ accused persons. More so the petitioners/ accused persons would have sufficient opportunity to defend himself during the course of trial. Hence, no interference is called for at this stage and petition deserved to be dismissed.

8. Accordingly, the petition is dismissed. The trial court is directed to expedite the hearing of the case.