

**IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL MISCELLANEOUS JURISDICTION)**

**Present:**

Mr. Justice Md. Khairul Alam

and

Mr. Justice Md. Sagir Hossain

**Criminal Miscellaneous Case No. 2420 of 1999.**

Md. Anowar Hossain.

.....Petitioners.

-Versus-

The State and another.

..... Opposite parties.

No one appears

..... For the petitioners.

Ms. Nahid Hossain (Liza), DAG

..... For the opposite parties.

**Heard & Judgment on: 15.01.2026.**

**Md. Khairul Alam, J:**

On an application under section 561A of the Code of Criminal Procedure rule was issued calling upon the opposite party to show cause as to why the impugned proceeding being Complaint Case No. 150 of 1996 (Gab) now pending in the Court of Magistrate 1<sup>st</sup> Class "Cha" Anchal Bogra shall not be quashed.

Relevant facts for disposal of the rule are that the prosecution case in short is that complainant is a Co-Ordinator of the Proshika Manobik Unnayan Center, Gabtali,

Bogra, That the accused No. 1 is a Chairman Krishi Unnayan Samity of Krishna Chandrapur under Gabtali, Bogra and other accused are member of the said Samity That the accused persons filed an application for and loan and was granted as per deed of agreement and accused persons received a loan of Taka 88,000/-from the complainant on 15.10.96. The accused persons failed to pay instalment of loan. It the date of occurrence witnesses No. 2 went to the said Samity of the accused and the witness No. 3 requested to pay the loan, then accused persons refused to pay of the said loan. Thereafter complainant filed a petition of complainant before the learned Magistrate under Sections 406/42 of the Penal Code. The learned Magistrate took cognizance against the accused including the accused petitioner under sections 406/40 of the Penal Code. The petitioner obtained bail by the lower Court. The accused petitioner is Chairman of Krishna Chandra Krishi Unnayan Samity, Gabtali, Bogra that the petitioner along with other accused persons took loan of Tk. 88,000/- from the said Samity as per deed of agreement on nonjudicial

stamp. There after accused petitioner paid a loan verious instalment, to the complainant's Samity by money receipt.

The petition of complaint does not disclose any ingredient de of Section 405 of 415 of the Penal Code as such the impugned procedure against the accused petitioner should be quashed. The accused petitioner and other paid a loan Taka 36,460/- to the opposite party No. 1 through money receipt and it is a simple loan transaction and as such the impugned proceeding in liable to be quashed. The allegation made out in the petition of complaint is purely Civil Nature and as such impugned proceeding is liable to be quashed in the petition of complaint is a simple loan transaction with a promise to pay the borrowed money by a certain date on the basis of agreement. It is purely Civil nature and as such the impugned proceeding under Section 406/420 of the Penal Code against the accused petitioner is an abuse of the process of the Court.

Consequently on receiving summons the accused petitioner obtained bail before the Court of the learned Magistrate.

Being aggrieved the impugned preceding that against the said case as petitioner preferred the Criminal Miscellaneous case under section 561A and obtained the rule is the proceeding this barred by law under section 195 of the Code of Criminal Procedure.

No one appears to oppose the Rule.

On the other hand Ms. Nahid Hossain (Liza), leaned Deputy Attorney General opposed the rule.

Heard the learned Deputy Attorney General perused of the application has submitted that the courts below after considering the facts, circumstances, and the evidence on record.

We have considered the submissions advanced by the learned Deputy Attorney General and perused the application and other connected papers.

It appears that the petitioner complaint has filed by provide in devising under section 193 of the Penal Code which is barred by under section 195 of the Code of Criminal Procedure.

In view of the discussion made above and considering the facts and circumstances of the case, we find merit in this Rule.

Accordingly, the rule is made absolute.

The impugned proceeding being Complaint Case No. 150 of 1996 (Gab) now pending in the Court of Magistrate 1<sup>st</sup> Class "Cha" Anchal Bogra is hereby quashed.

The petitioner is hereby acquitted from the charge and he is also released from the bail bond.

Communicate this judgment and order at once.

Md. Sagir Hossain, J.

I agree.

Kashem, B.O