



2026:AHC:129117

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 8507 of 2026

Bhanu Pratap Nigam @ Vinay Kumar Nigam

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Bhagwan Dutt Pandey
Counsel for Respondent(s)	:	G.A.

Court No. - 68

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri B.D. Pandey, learned counsel for the petitioner, Sri S.S. Singh, learned AGA for the State.

2. In view of the order which is being proposed to be passed, notices are not being issued to the opposite party no. 2.

3. The case of the applicant is that a complaint stood launched by the opposite party no.2 against the applicant and Shri Vikas Srivastav and thereafter, on 16.01.2020, the Chief Judicial Magistrate, Maharajganj, in Complaint Case No. 2040 of 2018, *Nandlal vs. Vikas Srivastav*, summoned the applicant and Vikas Srivastav under Sections 406, 419, 420 IPC against which, Shri Vikas Srivastav preferred Revision No. 145 of 2019, which came to be rejected on 16.01.2020. This was the subject matter of challenge in Application under Section 482 No. 5336 of 2020, in which on 25.02.2020 the following orders were passed:-

"Applicant Vikash Srivastava filed an application under Section 482 Cr.P.C., with the following prayer :-

"to quash the impugned judgement and order dated 16.1.2020 passed by the Sessions Judge, Maharajganj in Criminal Revision No. 145 of 2019 (Vikash Srivastava Vs. State of U.P) as well as summoning order dated 5.9.2019 passed by Chief Judicial Magistrate, Maharajganj in Complaint Case No. 2040 of 2018, Nand Lal Vs. Vikash Srivastava and another, under sections 406, 419 and 420 I.P.C, Police Station Nichlaul, District Maharajganj"

Learned counsel for applicant submits that applicant is innocent; he has committed no offence and has been falsely implicated in the present case; nothing has been recovered from the possession of the applicant. No offence is made out against the applicant. From the allegation of complaint and evidence adduced by the

complainant. It is further submitted that the informant has tried to convert a civil dispute into criminal offence. Offence is totally of civil nature but the trial court did not consider this aspect and summoned the accused-applicant without proper appreciation of evidence. He showed some documents and evidence in support of his contention. It is further submitted by him that report dated 4.8.2018 submitted by the Additional Deputy Collector, Sadar Maharajganj to Additional District Magistrate (Judicial) Maharajganj reflects that there is no manipulation in the record but the trial court did not take into consideration the aforesaid record and passed the impugned order.

Learned AGA opposed the application and submitted that the Trial Court, has rightly summoned the accused for facing the trial.

From the perusal of record it reflects that on the application under section 156(3) Cr.P.C made by the informant Nand Lal Verma, opposite party No.2, herein, the C.J.M., Maharajganj, keeping in view the law laid down by this Court in the case of Priyanka Vs. State of U.P, directed the District Magistrate, Maharajganj to appoint any officer to enquire the allegation made in the application under section 156(3) Cr.P.C and submit its report. The matter was got enquired by the Additional S.D.O Maharajganj who submitted his report stating that there was no manipulation on the record.

From the perusal of impugned order dated 5.9.2019, it appears that the learned C.J.M, while passing the impugned summoning order, did not take into consideration, the report submitted by the Additional S.D.O. Sadar, Maharajganj. The impugned order reflects no application of judicial mind. It reflects that the learned C.J.M. passed the impugned order casually and without application of mind, which is liable to be quashed.

The application under section 482 Cr.P.C is allowed. The impugned order dated 16.1.2020 is quashed. Matter is remanded back to learned Magistrate concerned to consider entire material placed before him and pass a fresh reasoned and speaking order in accordance with law within a period of three months from the production of a certified copy of this order.

Office is directed to communicate this order to the Court concerned through District Judge concerned forthwith."

4. Thereafter, on 11.01.2022, the Additional Chief Judicial Magistrate / Civil Judge (Junior Division), Maharajganj, summoned the applicant and Shri Vikas Srivastav under Sections 406, 409, 419, 420, 506 IPC. Shri Vikas Srivastav questioned the same while filing Application under Section 482 No. 5308 of 2022, Vikas Srivastav vs. State of UP, in which on 23.03.2022 the following orders were passed:-

"Counsel for the opposite party no.2 prays for and is granted four weeks' time to file counter affidavit. Rejoinder affidavit may be filed within two weeks thereafter.

List immediately after expiry of the aforesaid period before appropriate Bench.

Till the next date of listing, no coercive action shall be taken against the applicant in Complaint Case No. 2040 of 2018 (Nand Lal Vs. Vikash Srivastava & Another), under Sections 406, 409, 419, 420, 506 I.P.C., PS Nichlaul, District Maharajganj, pending before Additional Chief Judicial Magistrate/Civil Judge (Junior Division), Maharajganj."

5. Now the applicant preferred a Revision No. 15 of 2022, which came to be rejected on 21.01.2026 by the Court of Additional Sessions Judge / Special Judge SC/ST Act, Maharajganj, on the premise that already a 482 application has been preferred by Vikas Srivastav which is pending before this court and interim protection has been accorded. Thus, the revisional authority denuded itself from proceeding on merits in the revision.

6. Questioning this order, the present petition has been preferred.

7. Learned counsel for the applicant has submitted that the applicant as well as Shri Vikas Srivastav were the accused in the complaint case so launched by the opposite party number two. Merely because a 482 application has been preferred by Vikas Srivastav, and in which an interim order has been accorded, would not be a ground to shrink the responsibility to decide the revision so preferred by the applicant. Submission is that the revision ought to have been decided on merits, rather on a hyper-technical ground that the 482 application preferred by Vikas Srivastav is pending.

8. Learned AGA on the other hand submits that whatever might be, it was for the revisional court to have adverted to the merits, though it would have allowed or rejected the same.

9. Having heard the submissions made across the bar, the sole question which arises for determination is the extent of judicial intervention. Apparently, against the summoning order passed against the applicant and Vikas Srivastava, Vikas Srivastava has been accorded interim protection. However the revision so preferred by the applicant has been rejected on the ground that already the matter is subjudice and pending, at the instance of Vikas Srivastava.

10. In the opinion of the Court, the position might have been different in case the revision was not maintainable. Once a revision has been preferred by one of the co-accused and the other co-accused has been accorded interim

protection in 482 application, then the revisional court ought to have gone into the merits of the matter, rather than to shrink his responsibility and to denude itself while going into the merits of the matter. The entire approach so adopted by the court below cannot be said to be legal.

11. At this stage, learned counsel for the petitioner has submitted that the case of the petitioner stands covered in view of the judgment of the Hon'ble Apex Court in *Delhi Race Club (1940) Ltd. & Ors. vs. State of Uttar Pradesh & another*, 2024 0 Supreme (SC) 689.

10. In the opinion of the Court, once such a ground is taken, the court below shall consider the same.

12. Accordingly, the order dated 21.01.2026 passed by Additional Sessions Judge / Special Judge SC/ST, Maharajganj in Revision No. 15 of 2022 is set aside.

13. Matter stands remitted back to the revisional authority to pass a fresh order with utmost expedition without granting unnecessary adjournments.

14. Needless to point out that this court has not entered into the merits of the matter.

15. With the aforesaid observations, the petition stands **disposed of**.

June 25, 2026

N.S.Rathour

(Vikas Budhwar,J.)