



2026:AHC-LKO:19091

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 4734 of 2025

Om Prakash Shukla

.....Applicant(s)

Versus

The State Of U.P. Thru. Prin. Secy. Ministry Of
Home Lko. And 7 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Surya Narayan Mishra, Anil Kumar
Tripathi, Deepak
Counsel for Opposite Party(s) : G.A., Rakesh Chandra Tripathi, Rashmi
Singh, Sanjay Prakash Tiwari

Reserved on: 10.03.2026

Pronounced on: 17.03.2026

Uploaded on: 17.03.2026

HON'BLE BRIJ RAJ SINGH, J.

1. This application has been filed seeking quashing of the order dated 14.5.2025 passed by the Additional District and Sessions Judge, Room No.1, Gonda in Criminal Revision No.560 of 2024 (Om Prakash Shukla vs. State of U.P. and others) and the order dated 21.9.2024 passed by the Additional Chief Judicial Magistrate-I, Gonda in Complaint no.11462 of 2023 (Om Prakash Shukla vs. SHO Sanjay Kumar Gupta). A further prayer has been made for issuing a direction to the opposite parties to register an FIR against opposite party nos.4 to 8 and investigate the matter in accordance with law.

2. It is the case of the applicant that illegal mining of soil was done by opposite party nos.4 to 6 without permission of any competent authority and they were also levelling the ancestral old abadi land of the applicant in front of his house. On 23.6.2022 at about 2:00 p.m., the applicant went to the Police Station and reported the said incident, but out of political pressure of opposite party nos.4 to 6, opposite party no.8 did not register the FIR. The opposite party no.8 misbehaved with the applicant. Thereafter, the applicant informed the Superintendent of Police, Gonda about the said incident. Thereafter, opposite party no.8 along with other police Constables reached to the spot in a four-wheeler and dismantled twenty years old chhappar of the applicant, and hand-pump of the applicant was also broken. The said incident was informed by the applicant to the Superintendent of Police,

Gonda through a registered post on 25.6.2022, but no action was taken. Thereafter, an application under Section 156(3) Cr.P.C. was moved by the applicant, which was treated as a complaint. The statements under Sections 200 and 202 Cr.P.C. were recorded and thereafter the trial court dismissed the complaint under Section 203 Cr.P.C. on 21.9.2024. The applicant thereafter filed a revision against the order dated 21.9.2024, which too was dismissed on 14.5.2025.

3. It has been submitted by learned counsel for the applicant that while rejecting the application of the applicant, the trial court has overlooked the fact stated by the applicant in his complaint as well as in his statement recorded under Section 200 Cr.P.C. In the statement recorded under Section 200 Cr.P.C., the applicant has specifically stated that the police party and private opposite parties came to the place of occurrence along with JCB and the chhappar of the applicant was dismantled and his hand-pump was also broken.

4. Learned counsel for the applicant has invited attention of this Court toward the police report called by the court below prior to dismissal of the application of the applicant. He has invited attention of the Court towards the concluding part of the enquiry done by the Circle Officer, Sadar, District Gonda dated 25.2.2023, which reads as under:

"उक्त सन्दर्भित प्रकरण की जाँच के मध्य सम्बन्धित के अभिकथन एवं अभिलेखों का परिशीलन किया गया तो पाया गया कि आवेदक ओम प्रकाश शुक्ला एवं विपक्षी राम बहादुर सगे पट्टीदार हैं। दोनों पक्षों के मध्य पुश्तैनी जमीन के बटवारे को लेकर विवाद है। घर के सामने आबादी की भूमि अधिक होने के कारण सभी पट्टीदारों का निकास एल आकार का है। दोनों पक्षों के निकास हेतु घर के सामने पड़ी आबादी की भूमि से निकास का रास्ता है। रास्ते में गड़ढा होने के कारण बरसात के समय रास्ते में जलभराव हो जाता था, जिससे विपक्षी का रास्ता बाधित हो जाता था। उसी रास्ते के गड़ढे में विपक्षी द्वारा ग्राम प्रधान से मिलकर मिट्टी डालकर रास्ते का निर्माण कराया था। जो मिट्टी विपक्षी गण द्वारा रास्ते में डलवाई गयी थी वह मिट्टी ग्राम प्रधान अजीत शुक्ला द्वारा कई वर्ष पूर्व अपने खेत से ही एकत्र की थी। रास्ते के निर्माण हेतु डाली गई मिट्टी को बराबर करने हेतु विपक्षीगण द्वारा जे०सी०बी० से बराबर करवाया गया था। उसी दौरान रास्ते के किनारे आवेदक का काफी पुराना कन्डौरा का छप्पर रखा हुआ था जो काफी जर्जर स्थिति में था। मिट्टी पटाई के दौरान जे०सी०बी० से हल्का धक्का लग जाने के कारण छप्पर गिर गया था। चूंकि कन्डौरा का छप्पर काफी पुराना होने कारण उसमें से बरसात के समय विषैले जीव जन्तु रास्ते में निकला करते थे। इस कारण उस गिरे हुए कन्डौरा के छप्पर को विपक्षी द्वारा हटा करके रास्ते को साफ कर दिया था। उक्त प्रकरण की सूचना जैसे ही आवेदक द्वारा पुलिस को दी गयी तो पुलिस के द्वारा रास्ते के निर्माण हेतु मिट्टी पटाई का कार्य एतिहातन रुकवा दिया गया था। यद्यपि आवेदक द्वारा कोई स्थगन आदेश किसी भी सक्षम न्यायालय से नहीं प्राप्त किया गया था। भूमि सम्बन्धी विवाद होने के कारण दोनों पक्षों के मध्य व्याप्त कसीदगी को देखते हुए दिनांक 26.06.2022 को दोनों पक्षों के विरुद्ध 107/116 व 116 (3) सीआरपीसी की कार्यवाही की जा चुकी है। आवेदक एवं विपक्षीगण उक्त कार्यवाही के सम्बन्ध में दिनांक 06.07.2022 को नोटिस भी तामील कराया गया था।

आवेदक स्वयं अधिवक्ता है और पूर्व में अपने गाँव के कुछ मामलों में थाना पुलिस से सिफारिस करते रहे हैं। हितसिद्ध न होने पर पेशवन्दी मानते हैं। आवेदक बुलाने पर थाना पर नहीं आते हैं और न ही अपने छप्पर या हैण्डपम्प के क्षतिग्रस्त होने की रिपोर्ट लिखाते हैं।”

5. Learned counsel for the applicant has vehemently submitted that the aforesaid enquiry report itself indicates that during land filling through JCB, there was minor jerk which has taken place and due to the said reason, chhappar of the applicant fell on the ground. It has been submitted that the said fact indicated in the enquiry report is corresponding with the statement recorded under Section 200 Cr.P.C. of the applicant. He has submitted that the court below has also overlooked the fact that the applicant has also made a video of the entire incident. He has submitted that the court below has passed the order without application of mind, whereby rejecting the complaint of the applicant. Learned counsel for the applicant has placed reliance upon the judgment the Supreme Court in the case of ***Lalita Kumari vs. Government of Uttar Pradesh and others (2014) 2 SCC 1*** .

6. On the other hand, learned counsel for the private opposite parties has submitted that the Mining Officer, Gonda has already issued notice under the Mining Act against the answering opposite parties, therefore, launching criminal proceedings would be an abuse of the process of law. He has further submitted that the applicant and answering opposite parties are pattidars and there is land dispute between the parties. He has submitted that the applicant's father, namely, Indra Bahadur instituted Regular Suit No.3251 of 2019 against the answering opposite parties, who are co-parceners also, which was rejected for non-prosecution on 20.12.2021. He further submits that after calling the report from the police, the application filed by the applicant has been dismissed, whereas in the report, it is mentioned that both the parties are pattidars and having enmity with each other and they are litigating also, therefore, false criminal case has been instituted. It has been further submitted that the applicant is an Advocate and detailed investigation of the case has been done in pursuance of the order passed by the court below. He further submits that the report has been submitted to the extent that no such incident took place.

7. Learned counsel for the private opposite parties has placed reliance upon the judgment in the cases of ***Pradeep Kumar vs. State of U.P. and others, 2026:AHC:31226, Maiku Lal and another vs. State of U.P. and others,***

2024:AHC-LKO:73986 and Umesh Pandey vs. State of U.P. and others, 2025:AHC:12119.

8. I have heard Sri Anil Kumar Tripathi, learned counsel for the applicant, Sri Sanjay Prakash Tiwari and Ms. Rashmi Singh, learned counsel for the private opposite parties, Sri Anshuman Verma, learned AGA for the State, and perused the record.

9. From a bare perusal of the statement under Section 200 Cr.P.C., as well as complaint and the enquiry report submitted by the police dated 25.2.2023, the fact has come for consideration before this Court that the incident had taken place and JCB was used for filling the land and chhappar of the applicant was dismantled during land filling. Since it is an admitted position that chhappar of the applicant was dismantled by the JCB used by the answering opposite parties, it cannot be said that offence is not made out. The report dated 25.2.2023 clearly indicates the fact that "मिट्टी पटाई के दौरान जे०सी०बी० से हल्का धक्का लग जाने के कारण छप्पर गिर गया था ". Thus, the said report is corresponding with the fact narrated by the applicant in his complaint as well as in the statement recorded under Section 200 Cr.P.C. The court below is swayed on the report of the police wherein it is mentioned that both the parties are pattidars and litigating together, but the court below did not look into the fact that chhappar of the applicant was dismantled and his hand-pump was also broken. Such allegation makes out the offence, which is subject to enquiry and trial, but both the courts below have not considered the relevant factual aspect.

10. Therefore, the application is **allowed** and both the impugned orders dated 21.9.2024 and 14.5.2025 are set aside. The court below will proceed in the case in accordance with law, ignoring the impugned orders.

(Brij Raj Singh,J.)

March 17, 2026

Sachin