



2026:AHC-LKO:21470

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 1784 of 2016

Devendra Kumar Sharma

.....Applicant(s)

Versus

State of U.P. and Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Sudeep Kumar, Avdhesh Kumar
Pandey

Counsel for Opposite Party(s) : Govt. Advocate, Hari Bux Singh

Court No. - 15

HON'BLE BRIJ RAJ SINGH, J.

1. Case called out in the revise list. No one appeared on behalf of the opposite party Nos. 3 and 4 to oppose the application.

2. In view of the aforesaid, this Court proceeded to hear the instant application.

3. This application under Section 482 of Code of Criminal Procedure, 1973 (in short "CrPC") has been filed seeking setting aside of the impugned summoning order dated 03.04.2015 passed by the Additional Chief Judicial Magistrate, Court No.3, Lakhimpur Kheri in Complaint Case No. 53 of 2011 (Ahinsak Bajpai Vs. Sukhbir Singh) and entire proceedings of Complaint Case No. 53 of 2011 pending in the Court of Civil Judge (Senior Division)/FTC, Lakhimpur Kheri.

4. Brief facts of the case, as stated on behalf of the applicant, are that opposite party no.3/Ahinsak Bajpai gave an application under Section 156(3) CrPC, before the Chief Judicial Magistrate, Lakhimpur Kheri on 23.04.2004 against the applicant and also against Sukhbir Singh, the then Executive President alleging that on the night of 7/8 February, 2004, the sugar bags which were stacked and slipped due to which four labourers died and three labourers sustained injuries. FurtherThe applicant and the Executive President engaged inexperienced Labour Contractor despite the fact that only the licensee labourers can perform the work, but, in fact the

work was being taken from the unskilled labourers. On account of work of stacking being taken from the unskilled labourers, the stack of sugar bags was made in a slanted state. It has been alleged that the applicant was well aware about the serious incident which may take place but even then the work was taken from the unskilled labourers.

5. It has been submitted that so as to give colour to the incident opposite party no.3 alleged that on 07.02.2004 during the day time opposite party no.3 visited the treatment plant with his friend and one of the deceased has complained about the slanted stacking of sugar bags and on being complained to the applicant, the applicant attempted to kill opposite party no.3 and also snatched his HMT watch.

6. It has been further submitted that on the application of opposite party no.3, the Magistrate called a report from the concerned police station and passed an order for registration of the First Information Report. It is submitted that on the basis of the directions given by the Magistrate, a FIR dated 13.05.2004 registered as Case Crime No. 131 of 2004, under Sections 304A, 307, 352, 323, 392 IPC was lodged at Police Station Khamariya Pandit.

7. It has been further submitted that the investigating agency conducted a detailed investigation and during investigation, the investigating agency did not found commission of any cognizable offence and consequently a Final Report was submitted to the Magistrate on 22.05.2004.

8. It has been further submitted that the when the aforesaid Final Report came up for consideration before the Magistrate, then the Magistrate issued notices to informant i.e. opposite party no.3. After the issuance of notice Sri Ajai Kumar Shukla, Advocate appeared on behalf of the informant but surprisingly the opposite party no. 4/Dharmendra Singh Suryavanshi and one Brij Kishore have filed the protest petitions before the Magistrate.

9. It has been further submitted that in the protest petition the opposite party no.4 again reiterated the averments of the FIR lodged by the opposite party no.3. In paragraph 6 of the protest petition, the opposite party no.4 stated that on 07.02.2004 he visited the Sugar Mill along with

his friend namely Sri Ahinsak Bajpai. On 08.03.2010, the Magistrate found that since the investigating officer has only recorded the statement of the informant and has submitted the Final Report only on the basis of the enquiry report of the Sub-Divisional Officer, Dhaurahra and, therefore, the Magistrate vide order dated 08.03.2010 rejected the Final Report submitted by the investigating agency and the Station House Officer, Police Station Ishanagar, District Lakhimpur Kheri was directed to conduct the re-investigation and to submit the report.

10. It has been further submitted that the investigating agency again conducted a detailed investigation in pursuance to order dated 08.03.2010 passed by the Magistrate and after conducting the investigation, the investigating agency again submitted a Final Report and on the Final Report submitted by the investigating agency, the Magistrate, vide order dated 30.07.2010, has issued notices to the informant. Before the notices would be served upon opposite party no.3, opposite party no.4, who had no locus with the Final Report submitted by the investigating agency in respect of the FIR lodged by opposite party no.3, filed an application on 04.07.2011 in the Court of the Magistrate to the effect that the protest petition filed by the opposite party no.4 be registered as a complaint case and the statement of opposite party no.4 be recorded, under Section 200 CrPC.

11. It has been further submitted that the Magistrate, without conducting any inquiry into the matter and without any application of mind, passed the impugned summoning order dated 03.04.2015 summoning the applicant for trial of offense under Sections 325, 392, 506 IPC.

12. It has been further submitted on behalf of the applicant that opposite party no.3/Ahinsak Bajpai is not the complainant of the case rather complaint has been filed by opposite party no.4/Dharmendra Singh Soorvanshi. On the application given by opposite party no.3/Ahinsak Bajpai, the FIR registered as Case Crime No.131 of 2004 was lodged, thereafter, the police investigated the case and final report was submitted. Against the final report, opposite party no.3/Ahinsak Bajpai did not file any protest rather protest has been filed by opposite party no.4 making allegation that his watch was snatched. The statement under Section 200

CrPC of the opposite party no.4/complainant was recorded and a bare perusal of the statement under Section 200 CrPC indicates that the opposite party no.4 has specifically mentioned that he was not present at the place of occurrence and got information about the incident from Virender and Guddu. The statement of the other witness i.e. Rajesh, recorded under Section 202 CrPC, does not indicate that there is any allegation of snatching the watch of opposite party no.4. The Magistrate while issuing the summons has not applied mind and the statement under Section 200 CrPC has not been considered. Once the opposite party no.4 has deposed before the court he was not present at the place of occurrence. There is no reason to proceed in the case and entire proceedings appear to be vitiated.

13. It has been lastly submitted that the Final Report was submitted, after recording statement of the witnesses and after doing the investigation, even in the report, there is no mention of snatching of watch.

14. Sri Rao Narendra Singh, learned AGA-I for the State has opposed the application.

15. Heard Ms. Radhika Verma and Mr. Shreshtra Srivastava, Advocates holding brief of Mr. Avdhesh Kumar Pandey, learned counsel for the applicant, Sri Rao Narendra Singh, learned AGA-I for the State and perused the records.

16. The record reveals that on the application given by opposite party no.3/Ahinsak Bajpai, the FIR registered as Case Crime No.131 of 2004 was lodged, thereafter, the police investigated the case and final report was submitted and against the Final Report, opposite party no.3/Ahinsak Bajpai did not file any protest rather protest it has been filed by opposite party no.4 alleging therein that his watch was snatched by the applicant. The statement under Section 200 CrPC of the opposite party no.4/complainant was recorded and a bare perusal of the statement under Section 200 CrPC indicates that the opposite party no.4 has specifically mentioned that he was not present at the place of occurrence and got information about the incident from Virender and Guddu. The statement of the other witness i.e. Rajesh, recorded under Section 202 CrPC, does

not indicate that there is any allegation of snatching of watch.

17. It is evident that the Magistrate, while issuing the summons, has not applied mind and the statement under Section 200 CrPC has not been considered. Once the opposite party no.4 has deposed before the court he was not present at the place of occurrence. There is no occasion to proceed in the case and entire proceedings appear to be vitiated.

18. Application is accordingly **allowed**. The impugned summoning order dated 03.04.2015 passed by the Additional Chief Judicial Magistrate, Court No.3, Lakhimpur Kheri in Complaint Case No. 53 of 2011 (Ahinsak Bajpai Vs. Sukhbir Singh) is set-aside and entire proceedings of Complaint Case No. 53 of 2011 pending in the Court of Civil Judge (Senior Division)/FTC, Lakhimpur Kheri are hereby quashed qua the applicant.

(Brij Raj Singh,J.)

March 25, 2026

Mohit Singh/-