



2026:AHC-LKO:21839

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 1356 of 2018

Vidyotma And Ors

.....Applicant(s)

Versus

State Of U.P And Anr

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Manjusha Verma, Mishra, Shukla, (Mishra), Pandey	Kapil, Rama Sandeep Seema Sunil	Manish Shankar Kumar Pandey Kumar
Counsel for Opposite Party(s)	:	G.A., Sahu	Sushilendra	Kumar

Court No. - 15

HON'BLE BRIJ RAJ SINGH, J.

1. Heard Sri Sunil Kumar Pandey along with Smt. Seema Pandey, learned counsel for the applicants, learned AGA for the State and Sri Sushilendra Kumar Sahu, learned counsel for opposite party no.2.

2. Present application has been filed seeking quashing of the entire proceedings of Complaint Case no.1842 of 2016 (Lal Bahadur vs. Sushma Kumari and others) under Sections 120B, 417, 418, 406 IPC as well as summoning order dated 22.11.2017 and order dated 17.8.2016, Police Station Gadaganj, District Raebareli, pending in the court of Judicial Magistrate, Court no.19, Raebareli.

3. It has been submitted by learned counsel for the applicants that an FIR was filed by opposite party no.2 in Case Crime no.166 of 2015 under Section 419, 420, 406, 388 IPC at Police Station Gadaganj, District Raebareli in which final report was filed against the applicants. The opposite party no.2 filed an application under the protest which was allowed and the case was

treated as complaint vide order dated 17.8.2016. After recording the statements under Sections 200 and 202 Cr.P.C., applicants have been summoned vide order dated 22.11.2017, which is under challenge in this application. The opposite party no.2 was taking care of the lands of the applicants, who was close relative of husband of Smt. Sushma Kumari. The statement of Smt. Sushma Kumari was recorded under Section 161 Cr.P.C. before the Investigating Officer and she has stated that her husband died on 31.3.2015 and the opposite party no.2 is her husband's close friend and she has no sons and only daughters, therefore, opposite party no.2 was asked to take care of her properties and business.

4. It has been further submitted by learned counsel for the applicants that the money has been given to the applicants by opposite party no.2, which is the proceeds of crop (contract farming). It has been submitted that in Para 5 of the supplementary counter affidavit dated 9.3.2022 filed by opposite party no.2, it is admitted by him that the whole agricultural lands were only being supervised by opposite party no.2 and once he has admitted that he was supervising the lands of the applicants, meaning thereby that he was getting the proceeds out of crop and whatever money has been paid by him, is the money pertaining to the proceeds of crops of the land of the applicants. Learned counsel for the applicants has further submitted that at the most, it may be a case of recovery of suit, but opposite party no.2 cannot lodge criminal proceedings against the applicants. He also submits that there is no agreement of sale and purchase between the applicants and opposite party no.2.

5. On the other hand, learned counsel for opposite party no.2 has submitted that a bare perusal of the statement under Sections 200 and 202 Cr.P.C. and complaint indicates that the offence is made out against the applicants. He further submits that the applicants have realized the money of opposite party no.2 and they did not execute the sale deed in favour of opposite party no.2, therefore, they are liable to be prosecuted.

6. Learned AGA has also opposed the case.

7. After hearing learned counsel for the parties, this Court is of the opinion that opposite party no.2 himself has admitted in Para 5 of the supplementary counter affidavit dated 9.3.2022 that he was supervising the lands of the applicants. This Court cannot lost its sight on the given facts that the lands of the applicants were being supervised by opposite party no.2, meaning thereby he was getting the proceeds from the land in question. Notwithstanding anything, the fact remains that there is no agreement between the parties for sale and purchase and in case opposite party no.2 was aggrieved, he could have filed a suit for recovery for which evidence is required, but lodging FIR/instituting criminal case is not sustainable in the eyes of law.

8. The Supreme Court in the case of ***Rikhab Birani and another vs. State of U.P. and another***, 2025 SCC OnLine SC 823, in Paras 19 and 21 held as under:

"19. It is the duty and obligation of the court to exercise a great deal of caution in issuing process, particularly when the matter is essentially of civil nature.¹³ The prevalent impression that civil remedies, being time-consuming, do not adequately protect the interests of creditors or lenders should be discouraged and rejected as criminal procedure cannot be used to apply pressure.¹⁴ Failure to do so results in the breakdown of the rule of law and amounts to misuse and abuse of the legal process.

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21. Lastly, we would refer to another detailed judgment of this Court in *Sharif Ahmed v. State of Uttar Pradesh*¹⁷, which draws out the ingredients required to establish an offence under Sections 406, 415, 420, 503 and 506 of the IPC in the following terms:

"36. An offence under Section 406 of the IPC requires

entrustment, which carries the implication that a person handing over any property or on whose behalf the property is handed over, continues to be the owner of the said property. Further, the person handing over the property must have confidence in the person taking the property to create a fiduciary relationship between them. A normal transaction of sale or exchange of money/consideration does not amount to entrustment. Clearly, the charge/offence of Section 406 IPC is not even remotely made out."

9. In view of the aforesaid discussion, application is **allowed** and the entire proceedings of Complaint Case no.1842 of 2016 (Lal Bahadur vs. Sushma Kumari and others) under Sections 120B, 417, 418, 406 IPC as well as summoning order dated 22.11.2017 and order dated 17.8.2016, Police Station Gadaganj, District Raebareli, pending in the court of Judicial Magistrate, Court no.19, Raebareli, are hereby quashed.

March 26, 2026

Sachin

(Brij Raj Singh,J.)