

**IN THE COURT OF SH. VINEET KUMAR:
ADDITIONAL SESSIONS JUDGE-02; WEST: THC: DELHI.**

CNR No. DLWT01-001769/2026

Crl. (R) No. 99/2026

1. VIVEK DAHIYA

S/o Late Sh. Daler Singh
R/s H No. 2148,
Sector 44B, Chandigarh-160047

Also At:

Village and Post Bakkarwala,
Mundka, Delhi

.... Revisionist

Versus

1. SUMER SINGH

s/o Sh. Bharat Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

2. PRATAP SINGH

s/o Sh. Bharat Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

3. MAHENDER

s/o Sh. Bharat Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

4. VIRENDRA SINGH

s/o Sh. Bharat Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

5. DILBAG SINGH

s/o Sh. Narayan Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

6. RAKESH KUMAR

s/o Sh. Narayan Singh
R/o Village and Post Bakkarwala,
Mundka, Delhi

7. RAJNEESH GARG

s/o Sh. Kishan Ram
R/o H. No. M-27, Vikaspuri, New Delhi

8. STATE OF NCT OF DELHI

through SHO PS MundkaRespondents.

ORDER

1. This revision petition is preferred u/s 397/398 Cr.P.C r/w 438/440 BNSS against the impugned order dated 07.01.2026 passed by Ld. JMFC-06, West, THC, Delhi, whereby the case bearing Ct. Case No. 1053/2024 titled as “Vivek Dahiya Vs. Sumer Singh” was dismissed.
2. Adverting to the present revision, Id. Counsel for revisionist briefly stated that the petitioner/revisionist Vivek Dahiya, son of Late Sh. Daler Singh, resident of Sector-44B, Chandigarh, is a legal heir and co-owner of ancestral agricultural land situated at Village Bakkerwala, Delhi, bearing Khasra Nos. 32/15/2, 32/15/3, 33/11 and 33/12/1. The said property originally belonged to his great-grandfather Sh. Bharat Singh, and thereafter devolved upon his grandfather Sh. Mehtab Singh, then upon his father Sh.

Daler Singh, and ultimately upon the petitioner as the surviving legal heir. As per revenue records (Khatoni 1989-90), the property stood in the name of Bharat Singh and his brother Hari Singh. After the death of the petitioner's father in 2003, he was raised by his grandmother who later informed him about his rights in the ancestral property. In February 2024, the petitioner visited Village Bakkerwala to gather information regarding the property and came to know that the land had allegedly been occupied and mutated in favour of Rajneesh Garg in connivance with respondents Sumer Singh, Pratap Singh, Mahender, Virender Singh, Dilbag Singh and Rakesh Kumar. He was further threatened by certain persons not to visit the property again. Upon returning to Chandigarh and examining old records of his father and grandfather, the petitioner discovered documents suggesting that the ancestral land had been fraudulently transferred to Rajneesh Garg by the respondents through forged and fabricated documents, thereby depriving him of his lawful share. Aggrieved by the said acts, the petitioner lodged a police complaint vide DD No.1294 dated 14.02.2024 at PS Mundka, and also forwarded a complaint to the concerned DCP. However, no action was taken by the police. Consequently, the petitioner filed a complaint case titled "Vivek Dahiya vs. Sumer Singh" (CC No.1053/2024) on 09.05.2024, which was dismissed due to the non-availability of his main counsel. Since the alleged acts occurred in Delhi, the present revision petition has been filed before this Hon'ble Court seeking appropriate directions.

Despite the revisionist having diligently pursued the matter and regularly appearing before the court, a court notice issued to her was received back unserved, and without granting any further opportunity, the Ld. Trial Court dismissed the complaint on 24.09.2022 for non-appearance and non-prosecution.

3. Adverting to the impugned order, ld. Counsel relied upon the following grounds:

- The impugned order is illegal and arbitrary as the Ld. Trial Court dismissed the matter merely on the ground of wastage of judicial time without properly appreciating the facts and circumstances of the case.
- The Ld. Trial Court failed to exercise the jurisdiction vested in it and passed the impugned order mechanically without considering the bona fide reasons for seeking adjournment.
- The impugned order violates the principles of natural justice as the petitioner was not granted a reasonable opportunity of hearing, causing serious prejudice.
- Denial of adjournment despite sufficient cause amounts to denial of a fair trial and is contrary to Articles 14 and 21 of the Constitution of India.
- The Ld. Court failed to consider that the adjournment was not sought with any mala fide intention or to delay the proceedings and the request was bona fide and beyond the petitioner's control.
- The impugned order is harsh and disproportionate since dismissal of the entire matter for a single request of

adjournment is excessive and not warranted in law.

- Judicial time is meant to advance justice, however, the Ld. Court prioritized procedural rigidity over adjudication of the matter on merits.
- The impugned order does not record any finding of abuse of the process of law, yet the matter was dismissed, reflecting non-application of mind.
- It is a settled principle of law that cases should ordinarily be decided on merits and dismissal on technical grounds should be avoided unless there is gross negligence or deliberate delay.
- Therefore, the impugned order is perverse and unsustainable in law and calls for interference by the Hon'ble Revisional Court

Lastly it is prayed that the complaint case contains substantial material on record and warrants adjudication on merits. Dismissal for non-prosecution in the given circumstances has resulted in grave miscarriage of justice.

4. At the outset, this court is conscious of the fact that as per Section 401(2) of Cr.P.C, the revisional power should not be exercised without notice to adversary when an order prejudicial to him is to be passed. However, in the present matter, the order dismissing the complaint for non-appearance/non-prosecution otherwise does not touch upon, the factual or legal merits of the case. It only indicates about the conduct of the complainant in such proceedings, therefore, in such type of revision petitions, there is no legal requirement of issuing any formal notice to the respondent as

there was never any deliberation about merits or demerits of the averments made in the complaint. Therefore, vide order dt. 12.02.2026, the present court recorded the same. Otherwise, arguments were heard on behalf of revisionist.

5. Pertinently, the main plea of Ld. Counsel for revisionist is that Proxy counsel on behalf of revisionist/complainant has always been present before the Ld. Trial Court. Perusal of impugned order reveals that the presence of Ld. Proxy Counsel was recorded through VC, however, while dismissing the complainant case it has been stated that “*adjournment cannot be granted as it may result in wastage of judicial time, therefore, the matter is dismissed*”, which otherwise reveals that no cogent reason has been clearly specified by the Ld. Court while passing the impugned order. Pertinently the matter before the Ld. Trial Court was fixed for arguments on the application seeking registration of FIR. Although, the reason given for absence of main counsel for revisionist before Ld. Trial Court does not seem to be convincing or satisfactory, but this court cannot lose sight of the fact that by dismissing the entire matter in the manner as stated above, not only the legal right to seek registration of FIR has been taken away, but in the alternative, the right to otherwise prove the case by leading evidence has also been lost. Moreover, it is settled law that interest of justice is better served when matters are adjudicated on merits, rather than on technicalities and moreover, no prejudice is likely to be caused to anyone, in case the present matter is restored.

6. Therefore, in the interest of justice and keeping in view the facts and circumstances of this case, this court is of the view that the said complaint case along with pending application should be restored to its original number and position, but subject to reasonable cost. Accordingly, present revision is allowed and impugned order dated 07.01.2026 is set aside subject to deposit of cost of Rs.2000/- with WDLA, THC, Delhi.
7. Complainant/revisionist is directed to appear before Ld. Trial Court on 11.05.2026 a/w copy of receipt of cost furnished by him, whereupon a suitable date may be granted by the Ld. Trial Court for hearing the matter. However, it is clarified that but for any serious eventuality, only one opportunity shall be granted to the revisionist to pursue the matter before the Ld. Trial Court, as per law.
8. Trial Court record be sent back along with a copy of this order. Revision file be consigned to record room.

**Announced in the open
Court on 29.04.2026**

**(Vineet Kumar)
ASJ-02/West/THC/Delhi
29.04.2026**