



**IN THE COURT OF SESSIONS JUDGE, GAUTAM BUDDH NAGAR
PRESENT: ATUL SRIVASTAVA, H.J.S.
J.O.CODE No. UP 5738
CRIMINAL REVISION NO- 227/2025**

Mahipal S/O Late Sohanpal, R/O House No. 9, Street No. 1, Shiv Colony, Palla Chauk, Faridabad, Hariyana.

.....Revisionist;

Versus

1. UP State through DGC (Criminal).
2. Smt. Ritika Kumari, age about 27 years, wife of Mr. Mahipal Singh, D/O Mr. Mukesh Kumar (Mobile No. 9821553878).
3. Mukesh Kumar son of Shri Ram Singh, age about 51 years.
4. Mrs. Geeta, W/O Mr. Mukesh Kumar, age approximately 47 years.
5. Ankit S/O Shri Mukesh Kumar, age approximately 21 years.
6. Neha, D/O Shri Mukesh Kumar, age about 24 years.
7. Veer Singh (Ritika's uncle) age about 54 years.

All residents of Village Nangli Wajidpur, Near Old Shiv Mandir, Sector-135, Noida, Uttar Pradesh.

8. Dr. Kiran Seth.
9. Dr. Devendra Seth.

Address-Proprietor Sohan Diagnostic Ultrasound Centre, Bhangel, Dadri Road, Noida, Uttar Pradesh.

10. Manoj Kumar, Sub-Inspector, posted at Police Station Expressway, Sector-135, Noida, District Gautam Buddha Nagar, (Uttar Pradesh).

.....Respondents;

JUDGMENT

1. The present criminal revision under Section 397 Cr.P.C. (corresponding Section 440 of the Bharatiya Nagarik Suraksha Sanhita, 2023) has been preferred by the revisionist against the order dated 11.04.2025 passed by the Court of Chief Judicial Magistrate, Gautam Buddha Nagar in Application No. 96 of 2025, Mahipal Singh Vs Smt. Ritika and Ors., under Section 175(3) BNSS, whereby the application seeking a direction for registration of FIR was dismissed.
2. The revisionist in the present revision has submitted that the impugned order is illegal, arbitrary, contrary to the facts on record, and has been passed without proper application of judicial mind and by misinterpreting the legal principles laid down by the Hon'ble Supreme Court and the Hon'ble High Courts. It is stated that the revisionist is a second-year B.A. L.L.B. student whose unmarried disabled sister is wholly dependent upon him after the death of his parents. It is alleged that after an ultrasound conducted on 18.04.2021 confirmed that his wife, opposite party no. 2, was carrying a healthy pregnancy of about one and a half months with an expected date of delivery of 09.12.2021, opposite party no. 3 took her to her parental home on 17.05.2021 without his consent when she was approximately two and a half months pregnant. According to the revisionist, opposite party no. 2 was unwilling to continue the pregnancy and in conspiracy with her family members and opposite party nos. 8 and 9, got the healthy

foetus forcibly and illegally aborted on 23.06.2021 without his knowledge or consent. It is further alleged that the in-laws had earlier borrowed Rs. 2,00,000/- from the revisionist, which remains unpaid, and that the marriage mediator Satpal is a witness to the said transaction. The revisionist further alleges that after taking his wife away, her family members refused to answer his calls and repeatedly demanded that he settle accounts and divorce his wife, stating that the pregnancy was of no consequence. It is also alleged that on 16.06.2023, during police inquiry, the Investigating Officer, Manoj Kumar, questioned the wife and her mother regarding the abortion, whereupon they allegedly admitted that the pregnancy had been terminated in the hospital of opposite party nos.8 and 9 without the revisionist's consent. The revisionist further alleges that despite accepting Rs. 5,000/- from him for taking action, the Investigating Officer neither conducted a fair investigation nor returned the money. It is further alleged that the wife continues to reside at her parental home, the opposite parties are threatening and pressurising her to obtain a divorce, and they have instituted false cases against the revisionist before the Surajpur Court. It is contended that the learned Magistrate failed to properly appreciate the oral and documentary evidence available on record, including the ultrasound report, affidavits of the marriage mediator, written statements of the doctors, contradictions in their versions, and other circumstantial evidence, all of which, according to the

revisionist, prima facie disclose commission of cognizable offences. It is, therefore, urged that the dismissal of Application No. 96 of 2025 under Section 175(3) BNSS is unsustainable in law, the impugned order deserves to be set aside.

3. I have heard learned counsel for the revisionist, learned counsel for the opposite party, learned DGC (Criminal) and perused the record carefully.
4. The learned counsel for the revisionist has argued that the allegations disclosed commission of cognizable offences including illegal abortion, criminal conspiracy, cheating and corruption by the Investigating Officer. It is submitted that the Magistrate ought to have directed registration of FIR instead of dismissing the application.
5. Per contra the learned DGC (Criminal) and learned counsel for the opposite party has supported the impugned order and submitted that repeated inquiries had already been conducted by the police. No material could be collected to substantiate the allegations of forcible or illegal abortion. It is argued that the revisionist failed to produce any independent medical evidence or documentary proof supporting the allegations. The impugned order is reasoned and calls for no interference. Hence, the revision is liable to be dismissed.
6. The case of the revisionist, in brief, is that he was married to opposite party no. 2 Ritika on 25.11.2020 according to Hindu rites and ceremonies. It is alleged that after marriage the conduct of

the wife changed due to the influence of her parental family. The revisionist has alleged that his wife conceived and an ultrasound dated 18.04.2021 showed a healthy pregnancy which was later-on, aborted by her.

7. It is further alleged that on 17.05.2021 the wife was taken by her parents to her matrimonial home without his consent and thereafter, on 23.06.2021, opposite party nos.2 to 9, in conspiracy with each other, got the pregnancy illegally terminated without his consent through opposite party nos.8 and 9. It is further alleged that the Investigating Officer demanded illegal gratification. The revisionist further alleged that his wife and her relatives compelled him to divorce her, borrowed Rs.2,00,000/- from him, lodged false cases against him and suppressed the alleged offence despite repeated complaints before different authorities. Being dissatisfied with the inaction of the police, the revisionist moved an application under Section 175(3) BNSS before the learned Chief Judicial Magistrate, which came to be dismissed by the impugned order. Hence, the present revision.
8. The point for consideration is that whether the learned Chief Judicial Magistrate committed any illegality or material irregularity while dismissing the application under Section 175(3) BNSS? or whether the material available before the learned Magistrate disclosed sufficient grounds warranting a direction for registration of FIR?

9. The revisional jurisdiction of this Court is supervisory in nature.

The Court is required to examine only the legality, propriety and correctness of the impugned order. It is well settled that while exercising revisional jurisdiction the Court does not sit as an appellate Court for re-appreciation of disputed questions of fact.

10. The record reveals that before passing the impugned order, the learned Magistrate had called for a police report. The report categorically records that inquiry was conducted into the allegations made by the revisionist. During inquiry, although it was found that opposite party no.2 had conceived, no documentary, medical or circumstantial evidence could be collected indicating that a forcible or illegal abortion had been conducted. The inquiry report further records that opposite party no.2 stated that the pregnancy had ended due to miscarriage allegedly caused by harassment. The allegations regarding illegal abortion by opposite party nos.8 and 9 could not be substantiated during inquiry.

11. It is also apparent from the record that despite making allegations regarding illegal termination of pregnancy, the revisionist has not produced any medical record of the alleged abortion, discharge summary, consent form, hospital record, pathological report, prescription or any independent witness directly proving that the alleged abortion actually took place at the hospital named in the application. Similarly, the allegation regarding payment of illegal gratification to the Investigating

Officer is also unsupported by any independent material. The allegations regarding demand of divorce, monetary transactions between the parties and matrimonial discord primarily arise out of a strained matrimonial relationship. Such allegations, in absence of supporting evidence establishing commission of cognizable offences, cannot by themselves justify issuance of a direction under Section 175(3) BNSS.

12. The learned Magistrate has discussed the police report, the documents filed by the applicant and the legal principles governing exercise of powers under Section 175(3) BNSS. The Magistrate has rightly observed that the extraordinary jurisdiction under Section 175(3) BNSS cannot be invoked merely because allegations have been levelled by an applicant. The applicant must place sufficient material before the Court so as to prima facie disclose commission of a cognizable offence.

13. In the case of Anjum Vs State of UP And Others, 2008 (3) ADJ 417 Hon'ble Allahabad High Court has observed that the power under Section 156 (3) CrPC and exercised only on the reasons and not on arbitrariness. This discretionary power has been given to Magistrate to enable them to deal adequately with both type of petitions. (i) The genuine petition containing truthful allegations. (ii) Petition having baseless and false allegations..... Magistrate must apply his own mind and reason while dealing with powers under Section 156 (3) CrPC. The Magistrate always keep in mind with passing of an order for investigation in frivolous and

vexatious petition containing false allegations is an abuse of the process of the Court.

14. In the case of Mrs Priyanka Srivastava And Others Vs State of U.P And Others, 2015 (6) SCC 248, Hon'ble Apex Court has given direction that at the stage of section 156 (3) CrPC the Magistrate apply its judicial mind. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate.
15. The Hon'ble Supreme Court has consistently held that an application seeking direction for registration of FIR is not to be allowed mechanically and judicial mind is required to be applied before issuing such direction. The learned Magistrate has correctly followed the settled principles of law. This Court finds no perversity, illegality or jurisdictional error in the appreciation of material by the learned Magistrate.
16. The findings recorded in the impugned order are based upon the material available on record and cannot be termed arbitrary or unreasonable. Upon careful consideration of the impugned order, the material available on record, this Court is of the considered opinion that the learned Chief Judicial Magistrate has exercised jurisdiction in accordance with law. No patent illegality, material irregularity, perversity or jurisdictional error has been demonstrated warranting interference in revisional jurisdiction. The impugned order dated 11.04.2025 passed by the learned Chief Judicial Magistrate, Gautam Buddha Nagar does not suffer

from any infirmity requiring interference. Accordingly, the present Criminal Revision is liable to be dismissed.

Order

The criminal revision is dismissed.

The order dated 11.04.2025 passed by the Court of Chief Judicial Magistrate, Gautam Buddha Nagar in Application No.96 of 2025, Mahipal Singh Vs Smt. Ritika and Ors., under Section 175(3) BNSS, is hereby affirmed.

30.06.2026

**Atul Srivastava
Sessions Judge
Gautambuddh Nagar**

This judgment signed, dated and pronounced in the open court today.

30.06.2026

**Atul Srivastava
Sessions Judge
Gautambuddh Nagar**