



UPMA010021802026

In the Court no.1 of Additional Sessions Judge, Mau.

Present:Baquar Shamim Rizvi, H.J.S.

Judicial Officer Code no. UP6398

Criminal Revision no. 155 of 2026

1. **Santosh Kumar Singh aged about 56 years, son of Late Lalchand Singh, resident of Baharipur, Police Station Sarailakhansi, District Mau.**

---Revisionist

Versus

1. **State of U.P.**
2. **Pavan Kumar aged about 65 years, son of Late Ramcharan, resident of house no. 13 Gayatri market Narayan Nagar Sector 11, Indira Nagar, P.S. Ghazipur, District Lucknow- Ex. Executive Engineer, Provincial Division, PWD District Mau.**
3. **Chhavinath Prasad, aged about 66 years, son of Gudar Ram, resident of Larhiya Rohaniya, P.S. Rohaniya, District Varanasi- Ex. S.I. Police Station Kotwali Nagar, District Mau.**
3. **Suryanath Yadav aged about 47 years, son of Late Paltu Yadav resident of Bhujauti, P.S. Sarailakhansi, District Mau-Assistant Clerk Provincial Division, PWD District Mau.**

---Opposite parties.

JUDGMENT

1. Present criminal revision has been preferred against the impugned order dated 04.06.2025 passed by learned Chief Judicial Magistrate, District Mau in Criminal Case Number 710 of 2025, titled as 'Santosh Kumar Singh versus Pawan Kumar and others'. By the impugned order, learned Magistrate dismissed the complaint under section 203 Cr.P.C./226 B.N.S.S. filed by the complainant Santosh Kumar Singh.
2. A brief resume of preceding facts indicate that the complainant Santosh Kumar Singh filed complaint in the Court of Chief Judicial Magistrate, Mau stating that he does work of A Group contractor in Public Works Department, Mau, and his licence was valid up

to 30.06.2009. Due to conspiracy hatched by his rivals and opposite party no.1 Pawan Kumar, Executive Engineer of PWD Mau, a case in crime no. 1654/2009 was lodged on 07.07.2009 for the offences punishable under Sections 420, 120-B of the Indian Penal Code with regard to the incident dated 30.06.2009 occurred in A.D.M. office to deprive him from doing contract work, due to which renewal of his contract-ship could not be done. Finding the case to be fake, final report no.77 dated 31.08.2009 was filed by the investigating officer in the office of Circle Officer of Police and in collusion with the opposite parties, Circle Officer, Nagar, Mau passed the order of further investigation in the matter on 01.10.2009 and directed the Station House Officer of Police Station Kotwali Nagar to conduct further investigation in the matter. Later on S.I. Shri Chhavinath Prasad without any evidence, recording statements of clerk Suryanath Yadav and two witnesses, submitted charge sheet in the Court for the offences punishable under Sections 217, 218, 467, 468 of the Indian Penal Code on 04.02.2010. In the trial, the learned Chief Judicial Magistrate, Mau after trial, acquitted the complainant for the offences levelled against him on merits and found gross laxity against the investigating officer and sent the copy of judgment to take departmental and disciplinary action against Shri Chhavinath Prasad-investigating officer of the case. Proposed accused persons deprived the complainant for about 15 years due to pending the case in the Court in collusion with each other and harassed him physically, mentally and economically. Thus, proposed accused persons have committed offences under Sections 211, 193, 182, 166, 167, 344, 500 of the Indian Penal Code and prayed for summoning them. In the Court of Chief Judicial Magistrate, Mau, statement of complainant Santosh Kumar Singh under Section 223 B.N.S.S. and that of statement of witness PW1 under Section 225

B.N.S.S. were recorded and on the basis of evidence of complainant under Section 223 B.N.S.S. and evidence of witness PW1 under Section 225 B.N.S.S., the learned Magistrate dismissed the complainant under Section 203 Cr.P.C./226 B.N.S.S. Feeling aggrieved by the impugned order, the revisionist has preferred this revision.

3. Heard the the learned counsel for the revisionist and learned counsel for opposite party no.1 and 4 and perused the record.
4. The learned counsel for the revisionist submits that the learned Magistrate has not applied its judicial mind analysing the statement of the complainant under Section 223 B.N.S.S. and that of witness PW1 under Section 225 B.N.S. and other documents in passing the impugned order. The learned Court below observed that all the evidences produced by the complainant for summoning the proposed accused persons covered under Section 340 Cr.P.C./379 B.N.S.S., for which section 195 B(1) Cr.P.C./215 B.N.S.S. is applicable and in this regard, authorized person on behalf of Court may file complaint, while the complaint has not been filed under Section 340 Cr.P.C./379 B.N.S.S. The learned counsel for the revisionist further submits that the proposed accused persons have made effort to implicate him for preparing forged document and sentence him with life imprisonment, due to which his reputation affected adversely in society, but his complaint was dismissed under Section 203 Cr.P.C./226 B.N.S.S. by the learned Magistrate erroneously. Impugned order is not just and proper order in the eye of law.
5. The learned counsels for the opposite party no.1 and 4 submit that the learned Court below has appreciated the entire facts and circumstances of the case and has perused the statements of the complainant and that of the witness PW1 and on careful appreciation of the statements of the complainant and that of the witness,

the learned Magistrate came to the conclusion that with regard to the facts mentioned in the complaint, only person authorized by the Court may file complaint against the proposed accused persons, while complainant is not authorized on behalf of Court and dismissed the same. The learned Magistrate has not committed error in dismissing the complaint.

6. In the case of **Amit Kapoor Vs. Ramesh Chander, (2012) 9 SCC 460(paras 12,13,18 & 20)**, Hon'ble Supreme Court has held **as to when revisional jurisdiction U/s. 397 Cr.P.C. can be invoked, like where the decisions under challenge are grossly erroneous or there is no compliance with the provisions of law or the finding recorded is based on no evidence or material evidence is ignored or judicial discretion is exercised arbitrarily or perversely etc. It has also been held that revisional jurisdiction of the higher Court is a very limited one and can not be exercised in a routine manner.**
7. In the case of **State Farm Corpn. of India Ltd. vs. Nijjar Agro Foods Ltd.(2005)12 SCC 502**, it has also been held by Hon'ble Apex Court that- a revisional Court has no jurisdiction to set aside the findings of facts recorded by the Magistrate and impose and substitute it's own findings. Section 397 to 401 of Cr.P.C. confer only limited power on revisional Court to the extent of satisfying the legality, propriety or regularity of the proceedings or orders of the lower Court and not to act like appellate court for other purposes including the recording of new findings of fact on fresh appraisal of evidence.
8. It is well settled law that at the time of summoning of an accused under section 204 of the Code of Criminal Procedure, the Magistrate has to see whether the prima-facie case has been made out against the proposed

accused or not? After perusing the statement of the complainant under section 200 of the Code of Criminal Procedure and that of the witnesses under section 202 of the Code of Criminal Procedure, the same can not be analysed deeply and critically at this stage. It is also well settled law that summoning of an accused in a criminal case is a serious matter. Criminal law can not be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would be sufficient for the complainant to succeed in bringing home the charge against the accused.

9. From the perusal of the complaint, it appears that the learned Magistrate has taken plea of Section 340 Cr.P.C./379 B.N.S.S., so matter comes within the purview of Section 195 (b)(i) Cr.P.C./215 B.N.S.S. for which on behalf of Court, authorized person may file complaint. In the opinion of this Court, said fake incident has not been hatched in any Court or in this regard, no document was produced in the Court, so provisions of Section 340 Cr.P.C./379 B.N.S.S., read with Section 195 (b)(i) Cr.P.C./215 B.N.S.S. is not attracted in this matter. The learned Magistrate has committed error in analysing the provisions of Section 340 Cr.P.C./379 B.N.S.S., read with Section 195 (b)(i) Cr.P.C./215 B.N.S.S. In this case, all the documents are said to have been prepared out of the Court and in collusion with the proposed accused persons, final report was rejected by the circle officer and matter was ordered for further investigation, while the learned Magistrate has acquitted the revisionist on

merits, as alleged charges have not been proved. Hence, matters needs to be reconsidered a afresh as matter does not come within the purview of Section 340 Cr.P.C./379 B.N.S.S.,read with Section 195 (b)(i) Cr.P.C./215 B.N.S.S. Hence, the impugned order is not just and proper order in the eye of law.

10. In the backdrop of above discussion this Court finds that the learned Magistrate has committed error holding that the matter comes within the purview of Section 340 Cr.P.C./379 B.N.S.S. so provisions of Section 195(b)(i) Cr.P.C./215 B.N.S.S. is applicable and authorized person on behalf of Court may file complaint against the proposed accused persons. Hence, the impugned order deserves to be set aside and this criminal revision is liable to be allowed.

ORDER

The Criminal Revision no. 155 of 2026 is allowed and the impugned order dated 04.06.2025 passed by learned Chief Judicial Magistrate, District Mau in Criminal Case Number 710 of 2025, titled as 'Santosh Kumar Singh versus Pawan Kumar and others', is ,hereby, set aside. The learned Chief Judicial Magistrate, Mau is directed to pass afresh order in the light of observations made in the body of judgment after affording opportunity for hearing to the complainant. Let a copy of this judgment be sent to the Court concerned and record of this revision be consigned according to rules. Complainant to appear in the Court concerned on 04.08.2026.

Dated: July 15, 2026

(Baquar Shamim Rizvi)

Additional Sessions Judge,
Court no.1, Mau.

Judgment signed, dated and pronounced today in open Court.

Dated: July 15, 2026

(Baquar Shamim Rizvi)

Additional Sessions Judge,
Court no.1, Mau.