

IN THE COURT OF ADDL. SESSIONS JUDGE, COURT NO. 1, MAU

Present : Baquar Shamim Rizvi (Higher Judicial Service)

Judicial Officer Code No. UP6398



UPMA010033022023

Criminal Revision No. 174 of 2023

Bechu @ Md. Hashim aged about 50 years son of late Md. Afzal

R/o Adedih, PS – Sarailakhansi, Distt. Mau.

--Revisionist

Versus

1. State of U.P.

2. Mahboob aged about 70 years son of Noor Ahmad

3. Tasarifunnisha aged about 65 years wife of Subrati

4. Md. Ahmad aged about 35 years son of Subrati

5. Anwar Ahmad aged about 50 years son of Abdul Hamid

6. Md. Israil aged about 50 years son of Mahboob

7. Mainuddin Ahmad aged about 52 years son of Md. Ismail

All R/o Adedih, PS – Sarailakhansi, Distt. Mau.

--Opposite Parties

JUDGMENT

1. Present criminal revision has been preferred against the impugned order dated 16.03.2023 passed by learned Chief Judicial Magistrate, Mau in Misc. Case No. 123 of 2023, titled as 'Bechu alias Md. Hashim Vs. Mahboob and Ors.'. By the impugned order, the learned Magistrate dismissed the application of the revisionist which was filed under Section 156(3) Cr.P.C.
2. The brief facts of the case are that the revisionist has filed application under Section 156(3) Cr.P.C. before the learned Magistrate with the contention that Arazi Nos. 681/0.80, 702/0.0400 and 703/0.0500 were recorded in the names of applicant his mother Hamidun and his uncle Salamtullah. Well knowing about the fact, his co-villager Mahmood and other OPs have executed an agreement to sale of said land in favour of Anwar Ahmad by means of fraud, forgery and the manipulation of documents. The said agreement to sale was executed on 22.11.2022 in presence of witnesses Md. Israil and Mainuddin. The said agreement to sale was fraudulently executed.
3. The learned Magistrate found that the matter is related to civil dispute and initiating a criminal proceedings in this matter is an abuse of the legal process. While disclosing the above findings, the learned Magistrate dismissed the application of the revisionist while passing the impugned order.

4. The present criminal revision has been preferred by the revisionist/applicant primarily on the ground that the learned Magistrate has not applied his judicial mind while passing the impugned order. The learned Magistrate has not perused the application under Section 156(3) Cr.P.C. and passed the impugned order in a mechanical manner. The applicant has stated that for which land the agreement to sale was executed, the executer is not the owner of said land. On the above averments, the revisionist prayed that the revision be allowed and the impugned order be set aside.
5. The learned Additional District Government Counsel (Crl.) submits that there is no illegality or irregularity in passing the impugned order, as the matter is related to civil dispute and no prima-facie criminal offence is made out. He prayed for dismissal of revision.
6. Heard the counsel for the revisionist and the learned Additional District Government Counsel (Crl.) and perused the record.
7. The learned Magistrate, on the basis of contents mentioned in the application, did not find any cognizable offence to be committed by the Opposite parties. The learned Magistrate found that the matter is related to civil nature and criminal proceedings in this matter is abuse of legal system. Stating the above mentioned facts, the learned Magistrate has dismissed the application under Section 156(3) Cr.P.C. of the revisionist. The present criminal revision was filed by the revisionist against the impugned order stating that the executer of the agreement is not the owner of the said land. The allegations made by the revisionist relate to the agreement to sale of his land. It is evident that a remedy of civil proceeding i.e. cancellation of agreement to sale is also available to the revisionist. The real question arises that at the time of execution of agreement to sale, who was the owner of said land and the same can be proved by evidence. The said agreement to sale is a registered document. Without adopting a civil process and without hearing both the parties with their respective evidences, it cannot be assumed that the said agreement to sale has been fraudulently executed. If in the present case, passing an order for lodging of First Information Report would be like accepting that fraud has been committed. In such a situation the civil proceedings of cancellation of such agreement would be completely misused.
8. In the case of **The Commissioner of Police & Ors Vs Devender Anand & Ors Order dated August 8, 2019** it is observed that:-

‘Even considering the nature of allegations in the complaint, we are of the firm opinion that no case is made out for taking cognizance of the offence under Section 420/34 of IPC. The case involves a civil dispute and for settling a civil dispute, the criminal complaint has been filed, which is nothing but an abuse of the process of law.

9. In the case of **M/S Indian Oil Corporation Vs M/S Npc India Ltd. And Ors Order dated July 20, 2006**, the Honb’le Supreme Court has held that:-

‘That is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other

remedies available in law.’ The bench comprising of Justice H.K. Sema and Justice R V Raveendra while deciding an appeal filed by Indian Oil Corporation, challenging an order of the Madras High Court quashing criminal cases filed by it against NEPC India have sent out a clear warning that ‘Any effort to settle civil claims and disputes which does not encompass any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.’. Further, the bench has observed that ‘While no one with a legitimate cause or grievance should be prevented from seeking remedies in criminal law, a complainant who initiates or persists with a prosecution being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable at the end of such misconceived criminal proceedings.’

10. As far as the jurisdiction of revisional Court is concerned, 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.
11. 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 its 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.
12. In the backdrop of above discussion and the principles laid down by Hon'ble Supreme Court in above case laws, this Court finds that the grounds for revision given by the revisionist have no force. The learned Court below has not committed any illegality, impropriety or irregularity in passing the impugned order. Therefore, revision is liable to be dismissed.

ORDER

The present criminal revision is **dismissed**. Impugned order dated 16.03.2023 passed by learned Chief Judicial Magistrate, Mau in Misc. Case No. 123 of 2023, titled as ‘Bechu alias Md. Hashim Vs. Mahboob and Ors.’ is, hereby, upheld and affirmed.

Consigned the records as per rules.

Dated: 16.06.2026

[Baquar Shamim Rizvi]

Addl. Sessions Judge
Court No. 1, Mau

Judgment Dated, signed and pronounced by me in the open Court today.

Dated: 16.06.2026

[Baquar Shamim Rizvi]

Addl. Sessions Judge
Court No. 1, Mau