IN THE COURT OF ADDL. SESSIONS JUDGE/

SPECIAL JUDGE (NDPS ACT)

COURT NO.-III, PILIBHIT

Present : Vijay Kumar Himanshu, J.O. Code-UP2752

Karuna Gupta Vs Rachit Rastogi & Ors.

Criminal Revision No.-334/2025

JUDGMENT

1. A Revision Application vide no. 334/2025 has been filed in the matter of Karuna Gupta Vs Rachit Rastogi & Ors. against the order of Ld. Add. Civil Judge (Senior Devision)/ACJM, Pilibhit dated 17.11.2025. The Ld. Lower Court has dismissed the application u/s 173(4) BNSS. Therefore, the present revision is filed before this Court.

2. The brief prosecution story is that applicant husband Pushkar Gupta s/o Ravi Shankar, r/o Bamanpuri purani State Bank Puranpur, Pilibhit has for the purpose of business has taken loan from the Axis Bank, Puranpur, Pilibhit. The loan amount was Rs. 50,30,000/- (fifty lakh thirty thousand) against this loan amount the paper relating to properties belonging to the applicant (Karuna Gupta) and her mother-in-law (Ganga Devi) were mortgaged in the bank. This loan amount was sanctioned on 22.02.2022 and same was closed after paying the principle and interest amount to the bank on 01.06.2023. The account closure report in the form of pre-payment by the borrower has been issued by the Axis Bank on 21.07.2023. Persuant to this report no dues letter was also issued on 27.07.2023.The Bank after the pre-payment of loan has issued closure report and no objection certificate but has retained the original copy of the property belonging to the applicant (Karuna Gupta) and Ganga Devi (mother-in-law) was not returned by the Axis Bank, Puranpur. The Applicant and her mother-in-law has visited the bank for return of the mortgaged property on several occassion but they were not given back the original copy of the mortgaged property and the manager including the staffs were delaying the return of the property on one pretext or the other. The Applicant through a representation dated 06.03.2025 has asked for the return of the original copy of the mortgaged property against the loan which has already been paid but the Bank did not return the same. On 26.06.2025 a notice u/s 13(2) of Securitization and Reconstruction of Financial Assests and Enforcement of Security Interest Act, 2002 was received by the applicant and her family as borrower of yet another alleged loan (loan no. 923030040384657) with a sanctioned amount of Rs. 3,35,00,000/-. The loan is alleged to have been sanctioned on 19.07.2024 and the outstanding amount as on 20.06.2025 was Rs. 3,45,97,296 /- (Three Crore forty five lakh ninety seven thousand two hundred ninety six). The loan is alleged to have been flagged as Non Performing Asset due to various defaults in repayment of interest and prinicple amount as per due dates.

The Applicant and her family however claims that no fresh loan has been taken by them. The original paper which was mortgaged in the previous loan (loan account. no. 922030010845842) has been retained by the bank and was not returned to the applicant and her mother-in-law who stood as guarnteer for the previous loan. The applicant alleges that the branch manager of Axis Bank, Puranpur Rachit Rastogi, Rajat Mishra, Suresh Kumar and other higher authority has fraudulently used the mortgaged property paper by forging the signature of the applicant and her mother-in-law and hence has siphoned the amount of Rs. 3,45,97,296/-. The applicant Father-in-law after receiving the notice was deeply perturbed and due to mental harrasment he committed suicide on 10.03.2025. Against this backdrop the application u/s 174(3) of the BNSS was filed by the applicant which was rejected by the Ld. Lower Lower Court and hence this Revision.

3. The Ld. Counsel for the revisionist submits that the Ld. Lower Court has not examined the facts in proper perspective. The Ld. Counsel submits that the unauthorized retaining of the mortgaged property belonging to the applicant and her mother-in-law after the closure of loan account on 21.07.2023 till 06.03.2025 was with the ulterior motive. The Ld. Counsel submits that the alleged subsequent loan of Rs. 3,45,97,296 - and alleged consequent default resulting in *SARFASSI Notice u/s 13* the said Act is not within the knowledge of the applicant and his family. The Ld. Counsel further submits that the opposite party the branch manager of Axis Bank, Puranpur Rachit Rastogi, Rajat Mishra, Suresh Kumar and other higher authority has fraudulently used the mortgaged property paper by forging the signature of the applicant and her mother-in-law and hence has siphoned the amount of Rs. 3,45,97,296/-. The Ld. Counsel submits that the Ld. Lower Court has not examined the fact that unauthorisely retaining of mortgaged property and using the said property for committing fraud to the tune of more than 3.5 Crore Rupees and Suicide committed by father-in-law of applicant as a matter of shock are two events. Therefore, the FIR bearing Case Crime no. 0311/2025, u/s 318(4) and 108 of BNS was filed by Ganga Devi which will prinicipally investigate the cause of death of the applicant father-in-law. The Ld. Counsel therefore submits that the unauthorised retaining of mortgage property, forging of signature of the gauranteer/applicant and her mother-in-law without their knowledge or consent express or otherwise to siphon the money amount of Rs. 3,45,97,296/-. by sanctioning in the name of applicant and his family is altogether different incidence which require thorough investigation in the activities of bank and the participating officers. Therefore, he prays for setting aside of Ld. Lower Court Order. And allowing the revision.

4. The. Ld. Opposite party submits that the applicant has borrowed the second loan and that inability to pay back resulted in default in payment of principle and interest amount turning the sanctioned loan into a bad loan following under the category of NPA . Ld. Counsel submits that the FIR bearing case crime no. 0311/2025 in which investigation is pending therefore, the registering of yet another FIR could not be permitted. The Ld. Counsel submits that the Ld. Lower Court has not committed any irregularity, impropriety or illegality. Therefore, the Ld. Counsel prays for dismissing the Revision Application at the threshold.

5. I have heard the submission of both the Ld. Counsels and perused the material on record. The fact that applicant and his family has borrowed money from the Axis Bank on 22.02.2022 and has prepaid the loan. The loan payment report and NOC respectively was issued by the Axis Bank 21.07.2023 and 27.07.2023. However the paper of the mortgaged property belonging to the applicant and her mother in law was not handed over to them and was in possession of the bank till 06.03.2025. And the Official of the said bank was on one or orther pretext was not handing over the mortgaged property to the applicant and her family. This mortgaged property was unauthorisely used as a security to sanction a fresh loan without the knowledge of the applicant and her family. The unauthorised possession of the mortgaged property which was after settlement of the loan through repayment was to be returned to the lawful owner but same was retained unauthorisely for past two years and suddenly on 26.06.2025 a *SARFASSI* notice u/s 13 was served upon the applicant and her family. The alleged fraudulent siphoning of money by sanctioning heavy loan of Rs. More than three crore without the knowledge of the borrower is a matter of detail investigation involving the economic offense with a direct involvement of the bank officials and higher authorities. This grave issue has deep routine and involves technical assistance. Therefore, the rejection of the application u/s 174 (3) of BNSS stating that FIR vide no. 0311/2025 is filed in this case by applicant mother-in-law (Ganga Devi) u/s 318(4) and 108 of BNS.

The Court finds that fraudulent acts of Bank Officials by fraudulently misuing the mortgage property whose loan has already been settled is a distinct issue/incident from the FIR which is being investigated for the cause of death. Therefore, This Court finds that the issue of financial fraud committed by the bank official in sanctioning loan by fraudulently manipulating the mortgaged property belonging to the applicant and his family requires separate and distinct investigation which is essential to repose faith in the banking system and recover the fraudulently siphoned money to the tune amount of 3,45,97,296/-. The Court therefore, finds that the Ld. Lower Court inadvertently did not make distinction between two incidents; one is the fraudulent involvement of the bank officials and its machinery and another is the cause of death committed by the father-in-law of the applicant and therefore charge u/s 318(4) of BNS of the said FIR is merely incidental to the examination of the cause of death of applicant’s father-in-law. Therefore, this Court finds that the order of Ld. Lower Court suffers from irregularity and impropriety and is liable to be set aside.

ORDER

The Revision Application vide no. 334/2025 (Karuna Gupta Vs Rachit Rastogi & Ors.) is hereby allowed and the order of Ld. Lower Court dated 17.11.2025 is set aside with a direction that the Ld. Lower Court will pass an appropriate order in light of observations made by this Court. Let the file be remanded back to the Ld. Lower Court for further action.

Dated: 12.08.2026

(Vijay Kumar Himanshu)
Additional Sessions Judge/
Special Judge (NDPS Act)
Court No.-III, Pilibhit.

This judgment is signed, dated and pronounced by me, in the open Court today.

Dated: 12.08.2026

(Vijay Kumar Himanshu)
Additional Sessions Judge/
Special Judge (NDPS Act)
Court No.-III, Pilibhit.