



UPSD010021872024

**Court Of Additional Sessions Judge, F.T.C. 1 (Crime Against Women)
Siddharth Nagar**

Present: Kanishk Kumar Singh, H.J.S ID: UP2676

Criminal Revision No. 57 of 2024

Ajay Sharma son of Sh. Vishwakarma resident of village Untiya, P.S. Uska Bazar
District Siddharth Nagar

.... Revisionist

Versus

1. State of U.P.
2. Manoj Kumar Yadav
3. Pradeep Kumar
both sons of Sh. Daya Ram
4. Smt. Subhavati wife Sh. Daya Ram
all resident of village Semrahna, P.S. Uska Bazar, District Siddharth Nagar.

.....Respondents

Crl. Misc. Case No. 59/2024

P.S. Uska Bazar

District Siddharth Nagar

JUDGEMENT

1. This Criminal Revision has been preferred against the impugned order dated 06.06.2024 passed by the Ld. Addl.Civil Judge (Jr.Division), Court No.1, Siddharth Nagar in Crl. Misc. Case No. 59/2024 titled as “Ajay Sharma Vs Manoj Kumar Yadav and others” whereby application U/Sec. 156 (3) Cr.P.C. filed by Ajay Sharma son of Sh. Vishwakarma, resident of village Untiya, P.S. Uska Bazar, District Siddharth Nagar (hereinafter called revisionist), against Manoj Kumar Yadav, Pradeep Kumar Yadav

both sons of Daya Ram, and Smt. Subhavati wife of Daya Ram all resident of village Semrahna, P.S. Uska Bazar, District Siddharth Nagar – hereinafter called Respondents No. 2 to 4, was dismissed.

2. Heard the Ld. Counsel for the Revisionist and Ld. Addl. D.G.C. appearing for the State-Respondent No.1 as well as Ld. Counsel for Respondents No. 2 to 4 at length and I have gone through the trial court record.
3. The facts in brief are that on 22/01/2024 an application under section 156 (3) Cr.P.C. was moved by the revisionist against Respondents No. 2 to 4 in the Court of C.J.M. Siddharth Nagar. Ld. Chief Judicial Magistrate ordered that the aforesaid application be registered as Misc. Case and directed the SHO of P.S. Uska Bazar to submit his report regarding the truthfulness of the averments made against the respondents. Ld. Chief Judicial Magistrate vide order dated 5/2/2024 transferred the application under section 156(3) Cr.P.C. to the Court of Ld. Addl. Civil Judge (Jr. Division), Siddharth Nagar. It was alleged therein that the revisionist Ajay Sharma used to do scrap business under the name and style 'AS Metal Scrap Merchant' having GST registration number 09NOIPS7828H1ZX. It has been alleged that Respondent No.2 Manoj Kumar Yadav and Respondent No. 3 Pradeep Kumar Yadav had met the Revisionist Ajay Sharma in the month of October 2023 and told him that they wanted to sell as a scrap an old JCB machine which is unfit for use. It was agreed between them that the revisionist would buy the JCB at the rate of ₹ 25/– per kilogram. As per the revisionist, the Respondents No. 2 & 3 asked the revisionist to give them ₹ 2 lakhs immediately, as they were in need. The Revisionist Ajay Sharma claimed to have paid ₹ 1 lakh at that time in the presence of Hemraj and Deepak who were present there. After sometime, the revisionist again started demanding more money, due to which the revisionist asked them to get the JCB weighed and calculate the total due amount, so that he may pay the entire remaining amount. The revisionist Ajay Sharma claimed that he had transferred ₹ 56,000/– using UPI to the mobile phone of Respondent No. 2 Manoj Kumar Yadav on different dates as per their request in the months of October – November and got delivered ₹ 45,000/– to their mother Smt. Subhavati – Respondent No. 4, on the request of Respondent No.2 Manoj Kumar Yadav and the money

was delivered to her in the presence of Hemraj and Deepak. The revisionist claims to have paid to the respondent number 2 to 4 total ₹ 2,01,000/-as advance. Later on, the Respondents No. 2 & 3 started showing reluctance for getting the JCB weighed, due to which Revisionist Ajay Sharma demanded the return of the money paid by him to the Respondents No. 2 & 3, he was assured by them that they would return money by 10/1/2024, but they did not return the same. Consequently, the revisionist met Respondent No.2 Manoj Kumar and Respondent No.3 Pradeep Kumar Yadav on 12/1/2024 and told them that he don't want to purchase the JCB in scrap and demanded back his money which he had paid to them. Thereupon, Respondents No. 2 & 3 misbehaved with him and threatened to kill him. The revisionist had submitted the application at the concerned police station as well as to the SP requesting him to direct in charge of the police station to investigate, but no action was taken.

4. It is evident from the record that the revisionist had placed on record the copy of the application sent to the SP by the registered post, along with the receipt issued by the Post Office in that regard, photocopy of the GST registration number and the photocopy/screenshot of the UPI payment.
5. Report was also called from the concerned police station by the Ld. Addl.Civil Judge (Jr.Division), Court No.1, Siddharth Nagar. As per the report received from the police station, the dispute between the parties is regarding non-return of money by the respondents to the revisionist and no case had been registered at the police station.
6. The Ld. Addl.Civil Judge (Jr.Division), Siddharth Nagar vide impugned order dated 06.06.2024 dismissed the application moved by the revisionist under section 156 (3) Cr.P.C. holding that the dispute is regarding monetary transaction between the parties and prima facie it is a civil dispute. Aggrieved by the impugned order the revisionist has challenged the same by filing the present revision petition.
7. The grounds taken by the revisionist on which he has challenged the impugned order dated 06.06.2024 are that the impugned order is illegal and against the facts of the case. Ld. Trial Court had passed the impugned order which is improper and incorrect, and the Ld. Trial Court did not apply judicial mind while passing the impugned order. The revisionist has

reiterated in his revision petition the averments of the complaint. Revisionist had placed on record the copy of the application sent to the SP by the registered post, along with the receipt issued by the Post Office in that regard, photocopy of the GST registration number and the photocopy/screenshot of the UPI payment. The revisionist has prayed that the revision petition be allowed and the impugned order dated 06.06.2024 be set aside.

8. The Ld. Counsel for the revisionist in his arguments has reiterated the averments of the revision, and prayed that the impugned order be set aside and the revision be allowed. Ld. Counsel for the respondents 2-4 as well as the Ld. D.G.C. appearing for the State -Respondent No.1 argued that there is no infirmity or illegality in the impugned order, and the Ld. Trial Court had rightly dismissed his complaint. The Ld. D.G.C. has also submitted that the present revision is a frivolous one and deserves to be dismissed, as it is a civil matter.
9. I have heard Ld. Counsel for the revisionist, Ld. Counsel for the respondents 2-4 and the Ld. D.G.C. for the State-Respondent No.1, and have perused the impugned order and the trial Court record. I have also perused the report submitted by the concerned police station in the Court. After having perused the police report and the documents available on record, I am of the considered view that the dispute between the parties is primarily a civil dispute between the revisionist and the Respondent No.2-4, because the Respondent No.2 & 3 had not repaid the money i.e. ₹ 201,000/- which they had received from the revisionist Ajay Sharma on the pretext of selling the old JCB scrap, and recourse to set the criminal law in motion to settle a dispute which is of civil nature by way of filing application under section 156 (3) Cr.P.C. seeking intervention of the court for getting the case registered is totally unwarranted, and it would tantamount to the abuse of process of law which is impermissible.
10. After going through application under section 156 (3) Cr.P.C., or in case of a complaint case, the complaint and if required examining the complainant under section 200 Cr.P.C. and the witnesses under section 202 Cr.P.C. in the facts and circumstances of the particular case, the Magistrate has to be simply satisfied whether a prima facie case has been

made out and there are sufficient grounds for proceedings against the accused. If the allegations made in the complaint do not disclose any offence, and prima facie the dispute between the parties is of civil nature the Magistrate cannot summon the accused persons, likewise if the application does not disclose commission of any cognizable offence the Magistrate cannot direct investigation by the police.

11. In the present case, it has been rightly held by the Ld. Trial Court that the dispute between revisionist and the Respondent Nos. 2-4 is a civil dispute which had occurred due to the non-payment of the money which the Respondents No. 2 & 3 had taken from the revisionist as advance on the pretext of selling the old JCB in scrap, and the complainant had filed the application with mala fide intention of abusing the process of law and giving it the colour of a criminal case. In the instant case, surprisingly the Respondent No.4 Smt. Subhavati had no role to play and her only fault is that she accepted the money which was sent by the revisionist to her house. In the present case, the complaint discloses that the dispute is of civil nature, and no criminal angle is involved therein. The revisionist has prima facie failed to establish the commission of any offence punishable under I.P.C. or any penal Act by the Respondent No.2 to 4. The reasoning given by the Ld. Judicial Magistrate in the impugned order on the basis of material on record does not call for any interference by this court.

12. **In Sharif Ahmed v. State of U.P. 2024 INSC 363 : 2024 AIR (Supreme Court) 2420 : 2024 Cri.L.J 2322 Hon'ble Supreme Court has held:**

“43. However, what is surprising and a matter of concern in the present case, is that the police had initially rightly not registered the FIR, which had prompted the complainant to approach the Court of Additional Chief Judicial Magistrate, Chandpur, Bijnor, Uttar Pradesh, alleging that he is an honest and respected person in the society and is well established in business, while the accused are fraudulent individuals. The Additional Chief Judicial Magistrate had subsequently ordered for the FIR to be registered on the basis of the written complaint.

44. We would also like to emphasise on the need for a Magistrate to be cautious in examining whether the facts of the case disclose a civil or a criminal wrong. Attempts at initiating vexatious criminal proceedings should be thwarted early on, as a summoning order, or even a direction to register an FIR, has grave consequences for setting the criminal proceedings in motion.[27] Any effort to settle civil disputes and claims which do not involve any criminal offence, by way of applying pressure through criminal prosecution, should be deprecated and discouraged.[28]

[27] *Deepak Gaba and Others v. State of U.P. and Another*, (2023) 3 SCC 423.]

[28] *Indian Oil Corpn. v. NEPC India Ltd. and Others*, (2006) 6 SCC 736.]”

13. After having perused the grounds taken by the revisionist in the petition, the impugned order, and hearing the Ld. Counsel for the revisionist and Ld. Addl. D.G.C. appearing for the State – Respondent No.1 and Ld. Counsel for the respondents 2-4, I am of the considered view that there is no infirmity or illegality in the impugned order dated 06.06.2024 passed by the Ld. Addl.Civil Judge (Jr.Division), Siddharth Nagar Crl. Misc. Case No. 59/2024 titled as “Ajay Sharma Vs Manoj Kumar Yadav and others” whereby application U/Sec. 156 (3) Cr.P.C. filed by the revisionist Ajay Sharma had been dismissed, since on the basis of material available on record the dispute pertains to the returning of the advance money received by the seller as part payment for selling the old JCB in scrap to the revisionist Ajay Sharma-the buyer on the cancellation of the sale agreement in that regard by the buyer – the revisionist Ajay Sharma, thus the transaction between the revisionist and Respondent No. 2-4 is a civil dispute, and commission of any criminal offence by respondent No.2-4 is not made out. In view of the above-mentioned reasons I do not find any merit in the revision petition and the same deserves to be dismissed.

ORDER

In view of above discussion and reasons, the revision has no force and it is devoid of merits, accordingly, the revision is dismissed. impugned order dated 06.06.2024 by the Ld. Addl.Civil Judge (Jr.Division), Siddharth in Crl. Misc. Case No. 59/2024 titled as “Ajay Sharma Vs Manoj Kumar Yadav and others” is hereby confirmed. Petition disposed of. Trial Court record be immediately sent back.

Date: 23/07/2026

(Kanishk Kumar Singh)

ID: UP2676

Additional Sessions Judge

Siddharth Nagar

Judgement signed, dated and pronounced by me in the open court today.

Date: 23/07/2026

(Kanishk Kumar Singh)

ID: UP2676

Additional Sessions Judge

Siddharth Nagar