

UPSP010146482025



**IN THE COURT OF ADDITIONAL SESSION
JUDGE/SPECIAL JUDGE (E.C. ACT), COURT NO. 04,
SAHARANPUR**

PRESENT:: Prakash Tiwari, H.J.S.

Criminal Revision 546/2025

Gulshan Kumar s/o Pratap Singh, R/o Village Sikheda, P.S. Rampur
Maniharan, District Saharanpur, Aadhar No.- 4458 3860 9647.

.....Revisionist

Vs.

1. State of UP
2. Manager HDFC Bank, Saharanpur.
3. Branch Manager Office HDFC Bank Ltd., 2nd Floor, Mark Plaza 76A,
Rajpur Road, Dehradun, Uttarakhand.

.....Respondents

Judgment

1- This criminal revision has been preferred by the revisionist under Sections 397/399 Cr.P.C. against the order dated 22.09.2025 passed by learned Chief Judicial Magistrate, Saharanpur in Case Crime No. 386/2022 under Sections 406, 504, 120B IPC, Police Station Sadar Bazar, Saharanpur whereby the protest petition filed by the informant against final report has been dismissed for want of prosecution.

2- Briefly stated, FIR case crime no. 386/2022 was lodged by the revisionist/informant Gulshan Kumar under Sections 406, 504, 120B IPC at P.S. Sadar Bazar, Saharanpur. The Investigating Officer, after investigation, submitted final report concluding that no sufficient evidence was found against the accused persons. Upon submission of final report, notice was issued to the informant. The informant filed a protest petition opposing the final report. However, vide impugned order dated 22.09.2025 the learned Magistrate dismissed the protest petition merely on the ground that the informant was absent and no one pressed the protest petition, and accordingly accepted the final report without considering the merits of the case. Aggrieved thereby, the present revision has been filed.

3- Brief facts of the instant revision is as under.

The revisionist/plaintiff/informant in the aforementioned case, in order to meet out his need of funds, contacted a branch of opposite party no. 2, where he was informed that they provide gold loans. Relying on this assurance, the revisionist pledged his gold valued at approximately ₹4,00,000 with the bank to secure a loan bearing the number 72732661-1341043. An agreement was executed at the branch of opposite party no. 2, wherein the mobile number provided by the revisionist was duly recorded, and the bank representatives stated that all future communications and notifications would be sent exclusively to this number. Against the pledge of gold worth ₹4,00,000, the revisionist was disbursed a sum of ₹2,27,400. However, instead of sending notifications to the revisionist's registered mobile number, the bank sent information to a different mobile number and subsequently misappropriated the revisionist's funds. On September 19, 2021, at approximately 12:30 PM, the revisionist visited the bank accompanied by several people with the intention of repaying his loan; however, the bank staff subjected the revisionist to verbal abuse and physical assault. The revisionist submitted written complaints regarding this

incident to the local police station as well as to higher authorities. Since no action was taken by those authorities, the revisionist filed an application under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.) before the Chief Judicial Magistrate. Acting upon this application, the Court issued orders directing the concerned police station to register a first information report (FIR) and conduct an investigation into the matter; however, subsequent to the registration of the FIR, the police merely submitted a final report to the Court. The revisionist had filed protest petition no. 603/2023 before the Court against the Final Report. Although the revisionist appeared consistently on every scheduled date, the Court without properly exercising its judicial discretion dismissed the revisionist's protest petition on September 22, 2025, on the ground that the revisionist did not wish to press the petition. This dismissal occurred despite the fact that the revisionist, through his counsel, had submitted a request for exemption from personal appearance on that very day. Disregarding all these circumstances, the revisionist's protest petition was dismissed; consequently, the said dismissal is liable to be set aside in all respects.

4- Learned the Counsel for revisionist contended that:-

- a. Protest petition cannot be dismissed in default.
- b. Magistrate was required to apply judicial mind to final report.
- c. Acceptance of final report without considering case diary is illegal.
- d. Impugned order is mechanical and non-speaking.

5- In support of its submission, a certified copy of the impugned order dated 22.09.2025 has been filed by the revisionist.

6- Heard the arguments of the learned counsel for the revisionist & the learned A.D.G.C. (Criminal), & thoroughly examined the file.

7- The main point for the determination in the instant Criminal revision is whether the Magistrate was justified in dismissing protest petition for want of prosecution without examining the final report on merits?

8- The law is well settled that when a final report is submitted, the Magistrate has following options:

- a. Accept the final report
- b. Reject final report and take cognizance
- c. Order further investigation
- d. Treat protest petition as complaint

It is well settled that the magistrate is required to apply judicial mind to the material collected during investigation and pass a reasoned order. It is equally settled that **protest petition cannot be dismissed in default**. Even in absence of informant, magistrate must consider the police report and case diary. The Hon'ble Supreme Court in **Bhagwant Singh vs Commissioner of Police (1985) 2 SCC 537** held that when final report is submitted, the magistrate must give opportunity to informant and pass reasoned order after application of mind. Further, it has been consistently held that acceptance of final report without discussing evidence amounts to non-application of mind. The Hon'ble Allahabad High Court in **Pakhando vs State of U.P., 2001 Cri LJ 2991 (All)** held that protest petition cannot be dismissed for default and magistrate must decide the matter on merits. Similarly, in **Mahesh Chand vs B. Janardhan Reddy (2003) 1 SCC 734**, it was held that protest petition is to be treated as

complaint and cannot be rejected mechanically. It is also settled that **criminal proceedings cannot be terminated for default**, as criminal law must take its own course and court is duty bound to examine record while exercising revisional jurisdiction.

In the present case, perusal of impugned order shows that the learned magistrate dismissed the protest petition only on the ground of absence of informant and accepted final report without discussing allegations in FIR, statements recorded under section 161 CrPC, evidence collected by IO and reasons given in final report.

Thus, the impugned order suffers from non-application of judicial mind and is legally unsustainable. Resultantly, the instant criminal revision deserves to be allowed.

Order

The criminal revision is **allowed**. The impugned order dated 22.09.2025 passed by learned Chief Judicial Magistrate, Saharanpur in Case Crime No. 386/2022 under Sections 406, 504, 120B IPC, Police Station Sadar Bazar, Saharanpur, is hereby **set aside**. The learned Magistrate is directed to reconsider the final report, consider the protest petition on merits, examine case diary and material collected, and pass a reasoned order in accordance with law. Let copy of this order be transmitted to the court concerned for compliance. Record be consigned as per rule.

Date: 07.04.2026

(Prakash Tiwari)
Special Judge(E.C.Act)/
Additional Sessions Judge,
Court No.04, Saharanpur
I.D.-UP 6317

Judgment Signed, dated & pronounced in open Court today.

Date: 07.04.2026

(Prakash Tiwari)
Special Judge(E.C.Act)/
Additional Sessions Judge,
Court No.04, Saharanpur
I.D.-UP 6317