



2026:UHC:2158

Judgement Reserved on: 05.01.2026

Judgement Delivered on: 25.03.2026

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

**Criminal Misc.Application No.2240 of 2023**

Harendra Malik

.....Applicant

Vs.

State and Anr.

.....Respondent

**Presence:**

Mr. M.S. Pal, learned senior counsel, assisted by Ms. Amreen Bano, learned counsel for the Applicant.

Mr. B. C. Joshi, learned AGA, for the State of Uttarakhand.

Mr. Narayan Har Gupta, learned counsel for Respondent No. 4.

**Hon'ble Ashish Naithani, J.**

The present Criminal Miscellaneous Application has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of the summoning order dated 09.08.2023 passed by the Judicial Magistrate / Civil Judge, Kiccha, District Udham Singh Nagar in Criminal Case No. 994 of 2023, titled *State of Uttarakhand vs. Harendra Malik*, as well as the entire criminal proceedings arising therefrom.

2. The case originates from a First Information Report dated 13.05.2023 lodged at Police Station Kashipur, District Udham Singh Nagar. The complainant, who is associated with National Fertilizers Limited (NFL), alleged that the company had entered into contractual arrangements with M/s Tarai Farm Seeds & Co., a partnership firm engaged for storage, processing and handling of



seeds supplied by NFL. The Applicant is stated to be one of the partners of the said firm.

3. According to the allegations in the FIR, under the contractual arrangement the firm was entrusted with the responsibility of receiving raw seeds supplied by NFL, segregating and processing the seeds, and carrying out related operations including grading, packing, weighing, stacking, stitching and tagging, in accordance with the standards prescribed by the concerned authorities. It is alleged that only those processed seeds which were approved after quality verification were to be dispatched, while rejected seeds were to remain accounted for and returned in accordance with the contractual terms.

4. The FIR further alleges that during inspection conducted by representatives of NFL, discrepancies were noticed in the quantity of processed seeds which, according to the records of the company, ought to have been present in the godown of the contractor. It is alleged that a substantial quantity of seeds entrusted to the firm had been dishonestly disposed of and sold in the market without authorization, thereby causing wrongful loss to NFL and corresponding unlawful gain to the firm.

5. On the basis of the aforesaid allegations, the police registered the case and commenced investigation. Upon completion of investigation, the Investigating Officer submitted a charge sheet dated 25.07.2023 against the Applicant alleging commission of offences punishable under Sections 409 and 420 of the Indian Penal Code.



6. The learned Judicial Magistrate, upon consideration of the charge sheet and material accompanying it, took cognizance of the offences and passed the impugned summoning order dated 09.08.2023 directing the Applicant to face trial. Aggrieved by the said order and the continuation of the criminal proceedings, the Applicant has approached this Court by way of the present application under Section 482 CrPC.

7. Learned Senior Counsel appearing for the Applicant submits that the criminal proceedings initiated against the Applicant are wholly misconceived and arise out of a purely commercial and contractual dispute between the parties. It is contended that the relationship between the Applicant's firm and National Fertilizers Limited was governed entirely by contractual arrangements relating to storage and processing of seeds, and any dispute regarding stock verification or accounting of goods is essentially civil in nature.

8. It is further submitted that the allegations contained in the FIR and the material collected during investigation do not disclose the essential ingredients of the offences punishable under Sections 409 or 420 IPC. According to learned Counsel, there was no dishonest intention on the part of the Applicant at any point of time, nor was there any misappropriation of entrusted property as alleged.

9. Learned Senior Counsel also contends that the investigation has been conducted in a mechanical manner and the charge sheet has been filed without proper appreciation of the contractual terms and the actual functioning of the processing



arrangement between the parties. It is submitted that the discrepancy in quantities, if any, is attributable to accounting or procedural issues arising in the course of business operations and does not constitute a criminal offence.

10. It is also argued that the continuation of the criminal proceedings against the Applicant amounts to an abuse of the process of the Court, particularly when the matter essentially concerns contractual obligations and commercial dealings between the parties. The Applicant therefore seeks quashing of the summoning order and the entire criminal proceedings in exercise of the inherent powers of this Court under Section 482 CrPC.

11. Learned AGA appearing for the State, as well as learned counsel appearing for the private Respondent, oppose the application and submit that the FIR and the charge sheet disclose a prima facie case against the Applicant.

12. It is submitted that the material collected during investigation indicates that a substantial quantity of seeds entrusted to the contractor firm was found missing during inspection and that the same had allegedly been disposed of without authorization. According to the prosecution, the allegations clearly disclose dishonest misappropriation of property entrusted to the firm and therefore attract the provisions of Section 409 IPC, in addition to the offence of cheating.

13. Learned counsel further submit that the investigation has been completed and the charge sheet has already been filed before the competent court. The learned Magistrate, after considering the material placed on record, has taken cognizance and issued



summons to the Applicant. At this stage, it is argued, this Court ought not to undertake a detailed examination of disputed questions of fact.

14. It is contended that the defence sought to be raised by the Applicant involves matters which can be properly examined only during trial and cannot be adjudicated in proceedings under Section 482 CrPC.

15. The present application has been filed invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure seeking quashing of the summoning order dated 09.08.2023 passed by the Judicial Magistrate / Civil Judge, Kiccha, District Udham Singh Nagar in Criminal Case No. 994 of 2023, as well as the entire criminal proceedings arising therefrom.

16. The scope and ambit of the inherent powers of the High Court under Section 482 CrPC are well settled. The power is extraordinary in nature and is to be exercised sparingly, with circumspection and only in cases where the Court is satisfied that continuation of the criminal proceedings would amount to abuse of the process of the Court or where interference is necessary to secure the ends of justice.

17. The parameters governing the exercise of such jurisdiction were authoritatively laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein illustrative categories were enumerated where interference under Section 482 may be justified. At the same time, it was emphasized that such power should not be exercised to stifle legitimate prosecution.



18. More recently, the Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, (2021) 19 SCC 401 reiterated that the High Court, while exercising jurisdiction under Section 482 CrPC, should not conduct a meticulous examination of the evidence or undertake a mini trial. Where the allegations in the FIR and the material collected during investigation disclose commission of a cognizable offence, the criminal proceedings ordinarily ought to be permitted to continue.

19. In the present case, the allegations arise out of a contractual arrangement between National Fertilizers Limited and a partnership firm in which the Applicant is stated to be a partner. The material placed on record indicates that the firm had been entrusted with storage, processing and handling of seeds supplied by the company. The prosecution case, as reflected from the FIR and the charge sheet, is that during inspection discrepancies were noticed in the quantity of processed seeds which ought to have been available in the godown of the contractor, and that the entrusted stock had been dishonestly disposed of or sold without authorization.

20. The charge sheet submitted by the Investigating Officer alleges commission of offences under Sections 409 and 420 of the Indian Penal Code. The learned Magistrate, upon consideration of the charge sheet and accompanying material, has taken cognizance and issued summons to the Applicant.

21. The principal contention advanced on behalf of the Applicant is that the dispute between the parties is essentially civil or contractual in nature and that the criminal proceedings have



been initiated with an oblique motive. According to the Applicant, the alleged discrepancies in quantities are matters of accounting or contractual interpretation and do not disclose the ingredients of any criminal offence.

22. This Court is conscious that in certain cases disputes arising from commercial or contractual relationships may assume a predominantly civil character. However, it is equally well settled that the mere existence of a civil remedy does not, by itself, bar the initiation or continuation of criminal proceedings where the allegations disclose the ingredients of a criminal offence.

23. At the stage of considering an application under Section 482 CrPC, the Court is not expected to enter into an appreciation of the evidence or to adjudicate disputed questions of fact. The Court is required only to examine whether the allegations, taken at their face value and accepted in their entirety, prima facie disclose the commission of an offence.

24. In the present case, the allegations in the FIR and the material collected during investigation indicate that the firm to which the Applicant is connected had been entrusted with certain quantities of seeds belonging to the complainant company and that shortages were detected during inspection. It is further alleged that the said stock had been disposed of without authorization.

25. Whether the discrepancies in the quantities are the result of dishonest misappropriation, as alleged by the prosecution, or whether they are attributable to accounting issues or other explanations as claimed by the Applicant, are matters which involve appreciation of evidence and examination of factual



aspects. Such issues cannot appropriately be determined in proceedings under Section 482 CrPC.

26. This Court also notes that the investigation in the matter has already culminated in submission of a charge sheet and that the learned Magistrate has taken cognizance of the offences alleged. At this stage, the defence sought to be raised by the Applicant can more appropriately be examined by the trial court in accordance with law.

27. The inherent jurisdiction of this Court cannot be invoked to evaluate the sufficiency or reliability of the evidence collected during investigation. So long as the allegations in the FIR and the material accompanying the charge sheet disclose the basic ingredients of the offences alleged, the criminal proceedings cannot be quashed merely on the ground that the Applicant disputes the correctness of the allegations.

28. Having regard to the totality of the circumstances and the settled principles governing the exercise of jurisdiction under Section 482 CrPC, this Court is of the considered view that the present case does not fall within the exceptional categories where interference would be justified at this stage.

### **ORDER**

In view of the foregoing discussion, this Court finds no ground to exercise its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the impugned summoning order dated 09.08.2023 passed by the Judicial Magistrate / Civil



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Judge, Kiccha, District Udham Singh Nagar in Criminal Case No. 994 of 2023, or the criminal proceedings arising therefrom.

Accordingly, the present Criminal Miscellaneous Application under Section 482 CrPC is dismissed.

**(Ashish Naithani J.)**

**SB**