2025:AHC:208342

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 814 of 2025

Chandraprakash Yadav And 6 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Mohd. Samiuzzaman Khan, Saddam Husain
Counsel for Opposite Party(s)	:	G.A., Mayank Upadhyay, Shiv Sagar Singh

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AFR
Reserved on 28.10.2025
Delivered on 21.11.2025

Court No. - 91

HON'BLE ABDUL SHAHID, J.

1. Heard Sri Mohd. Samiuzzaman Khan, learned counsel for the revisionists, learned AGA for the State and Sri Shiv Sagar Singh, assisted by Sri Mayank Upadhyaya, learned counsel appearing for opposite party no.2.

2. This criminal revision is preferred against the order dated 6.1.2025, passed by the Additional Chief Judicial Magistrate, First, Gorakhpur in Case No. 121071 of 2021 (State Vs. Chandra Prakash Yadav and others) arising out of case crime No. 375 of 2019, under Section 419, 420, 467, 468 and 120-B IPC, Police Station Gorakhnath, District Gorakhpur.

3. The brief contents of the case is that the First Information Report of the incident was lodged on 13.10.2019, at case crime No. 375 of 2019, under Sections 419, 420, 467, 468, 471 IPC. The named persons in the FIR are (1) Ravindra Kumar Singh, (2) Arvind Nagpal, (3) Sanjay Nagpal, (4) Chandra Prakash Yadav, (5) Sushil Narula, (6) Salim Khan, (7) Shamsher Singh Yadav, (8) Ram Pal Yadav and (9) Pramod Kumar Bhandari.

4. The complainant, Hariom Gupta/opposite party no.2 has lodged F.I.R., stating that the Sri Triloki Nath Gupta, husband of Smt. Ramrati Gupta, died on 9.5.2001. Smt. Ramrati Gupta had adopted Satish Kumar Gupta, brother of the complainant, way of registered adoption deed dated 21.11.2001.

Complainant/Hariom Gupta, alongwith his brother Ashish Gupta and Satish Gupta were consistently looking after the affairs of movable and immovable properties of Smt. Ramrati Gupta during her life time. Now, Satish Gupta is doing coaching for post-graduate at Kanpur after completion of his MBBS. During the life time of Smt. Ramrati Gupta, she appointed several persons for looking after all affairs of her properties at Kanpur and Gorakhpur. She had appointed Ravindra Kumar Singh at Kanpur, who after gaining confidence of her, had obtained signature of Smt. Ramrati Gupta on printed and on some blank papers. He had mala fide intention to use those blank documents. Smt. Ramrati Gupta due to her old age, executed a registered will dated 11.1.2017 for all her moveable and immoveable properties in favour of Hariom Gupta/complainant, his brother Ashish Gupta and Satish Gupta. She had previously executed a registered will dated 24.10.2016, which she had cancelled and finally executed her will dated 11.1.2017. Ravindra Kumar Singh with his mala fide intention to grab the property of Smt. Ramrati Gupta with collusion of Arvind Nagpal, Sanjay Nagpal, Chandra Prakash Yadav, Sushil Narula, had framed a forged will of Smt. Ramrati Gupta. Said Ravindra Kumar Singh had presented that forged will in different institutiond and departments to grab all the properties of Smt. Ramrati Gupta and claimed himself as owner, hence he filed the present complaint. Salim Khan, Shamsher Singh Yadav had also conspired with Ravindra Kumar Singh in that mala fide act. Smt. Ramrati Gupta died on 9.3.2017. After death of Smt. Ramrati Gupta, Ravindra Kumar Singh had further aggravated use of forged will alongwith Arvind Nagpal, Sanjay Nagpal, Chandra Prakash Yadav, Sushil Narula and Salim Khan and witnesses of fabricated will, Ramphal Yadav and Pramod Kumar Bhandari.

5. After investigation, charge sheet has been filed against Ravindra Kumar Singh, Arvind and Sanjay Nagpal on 22.11.2020. A supplementary charge sheet was also filed against rest of the accused.

6. The revisionists had filed an application for discharge on 12.9.2024 with the contention that the investigation is false and fabricated. The Investigating Officer after collecting all the evidences had not sent them for verification to Forensic Science Laboratory. He did not seek any opinion of any expert. He did not verify that will dated 17.3.2015 executed by late Ramrati Gupta whether that will having her signature is genuine, authentic and legitimate,

false, forged and fabricated. The Investigating Officer arbitrarily and without any supporting verification document, he had accepted the will dated 11.1.2017 which was produced by the complainant and on the basis of statement of witnesses, the Investigating Officer declared will dated 17.3.2015 as incorrect and thereafter filed charge sheet. The alleged will dated 11.1.2017 is still a doubtful document whether that was executed by late Smt. Ramrati Gupta or not. Late Ramrati Gupta had seriously suffering from kidney disease and she was continuously on dialysis. Due to his extreme illness, Smt. Ramrati Gupta was admitted in Regency Hospital, Kanpur on 11.9.2016 and her kidney was failed and thereafter her other organs were also deteriorated in functioning. She had lost her proper mental faculties and also lost her senses. The medical certificate issued by Regency Hospital, Kanpur to Smt. Ramrati Gupta on 27.9.2016, in which it is specifically mentioned that she was having properties of billions and she has no legal heir. Hariom Gupta/complainant is son of brother of late Ramrati Gupta. All these brother started conspiracy to usurp the property of late Ramrati Gupta. During that conspiracy, they had discharged Smt. Ramrati Gupta in unconscious condition from the Regency Hospital on 14.10.2016 and took her to her residence at Gorakhpur. They conspired with each other and in unconscious condition, they created false and fabricated will with collusion of officials of Registry office. The will dated 11.1.2017 is a doubtful document because of all acts on all the documents of school and college, which was performed by Smt. Ramrati Gupta, she always put her signature,whereas on the will dated 11.1.2017, there is thumb impression of Smt. Ramrati Gupta. It is categorically clear that the will is neither with her consent nor in her knowledge. Smt. Ramrati Gupta was not in her full senses. Hariom Gupta/complainant having an evil eye on the properties of late Ramrati Gupta, due to that reason, adoption deed which was executed in favour of Satish Gupta, but rest two brothers Ashish Gupta and Hariom Gupta were working in management committee of Triloki Nath Smarak Uchchattar Madhyamik Vidyalaya by mentioning the name of Triloki Nath Gupta as their father since 2002 and 2003 by deleting the name of their biological father, whereas, no adoption deed was ever executed in favour of the Hariom Gupta/complainant and Ashish Gupta and they were not the sons of late Triloki Nath Gupta. They had started serving in clerical cadre and thereafter declared himself as Director. On the complaint of the revisionists,

the Deputy Registrar, Firms, Societies and Chits, Kanpur vide letter dated 7.2.2020 had issued notice to them while said institution should not be closed which is based on false and fabricated papers. When the revisionists were working and exposing of false and fabricated document, then the Hariom Gupta, complainant had fabricated a forged will. On the basis of that forged will, he had filed an application under Section 156(3) Cr.P.C and with the collusion and pressure tactics on the Investigating Officer got registered a case under Sections 419, 420, 467, 120B IPC. The revisionists took ground that unless and until any document declared as forged and fabricated, how the revisionists may be implicated in the offence under Sections 419, 420, 467, 468, 120B IPC.

7. Late Ramrati Gupta too established Sri Triloki Nath Gupta Smarak Uchchattar Madhyamik Vidyalaya in the memory of her late husband, Triloki Nath Gupta. She was President of it. She had sold some landed property in favour of the said college. Thereafter for further extension of the college, she had gifted her land as a President of the College. Hariom Gupta, the complainant and his brothers, Satish and Ashish tried to grab that property. The revisionists had filed application under Section 156(3) Cr.P.C. against them and a case at case crime No. 102 of 2023 was registered at Police Station Akbarpur, under Sections 420, 467, 468, 471, 506 IPC, which is still under investigation.

8. Learned counsel for the revisionists has submitted that the revisionists have filed a Civil Suit No. 275 of 2017 (Sri Triloki Nath Gupta Smarak Uchchttar Madhyamik Vidyalaya and another Vs. Satish Kumar Gupta and others), which is pending before the civil Judge (Senior Division), Kanpur Dehat. The parties are contesting in the said case. To avoid any judicial order in the said civil suit, they had filed this false, forged and fabricated FIR. Late Smt. Ramrati Gupta, who had written the will dated 17.3.2015 in favour of the revisionist are in her full conscious mind. The said will dated 17.3.2015 is duly signed by her. Her signature was duly verified by the expert and he verified that the signature of Smt. Ramrati Gupta on the will dated 17.3.2015 is right, correct and genuine.

9. It is submitted by the learned counsel for the revisionists that the matter in dispute is of purely civil nature and civil suit is also pending between the

parties and both will dated 17.3.2015 as well as alleged will dated 11.1.2017 are sub-judice in the said suit no. 275 of 2017. Until the civil court rejects the will dated 17.3.2015, it could not be treated as incorrect, false and fabricated, hence no offence is made against the revisionists. Hence the revisionists are entitled to be discharged.

10. Learned counsel for Hari Om Gupta/the complainant/opposite party no. 2 has submitted that Smt. Ramrati Gupta, who had no issue and thereafter, she had decided to give assets belonging to her to the son of her real brother Ram Prakash Gupta. Hence Ramrati Gupta and her husband had started showing love to the son of his real brother Ashish Gupta, Satish Gupta as well as Hariom Gupta. In this backdrop, Satish Gupta was adopted by late Ramrati on 21.11.2001 by way of registered adoption deed. Subsequently, Ashish Gupta son of Ram Prakash Gupta, who was pursuing study with late Ramrati, who willingly given her parental name of her husband Triloki Nath Gupta.

11. The opposite party no.2 relied that late Ramrati Gupta executed a Will dated 24.10.2016, wherein Ravindra Kumar Singh one of the revisionists was given some right for moveable property, but dishonestly Ravindra Kumar Singh, who was servant started unnecessary benefits and for the purposes of day to day work, he has illegally put a signature of Ramrati Gupta on blank papers and started misusing the blank paper signed by Ramrati Gupta. Hence Smt. Ramrati Gupta had cancelled her previous will dated 24.10.2016 and another registered will dated 11.1.2017 was executed. 1/3rd, each and equal share given to Hariom Gupta, Satish Kumar Gupta son of Ram Prakash Gupta, adopted son of Triloki Nath Gupta and Ashish Gupta.

12. The contention of learned counsel for the opposite party no.2 is appears to be contrary to the adoption deed. When late Ramrati Gupta had adopted Satish Gupta as her adopted son, hence will dated 11.1.2017 in favour of the complainant/Hariom Gupta, Ashish Kumar Gupta and Satish Kumar Gupta raises a preliminary question mark.

13. The contention of the learned counsel for the opposite party no.2 that the revisionist- Ravindra Kumar Singh has filed a probate application for

unregistered will dated 17.3.2015, but that probate proceeding was not decided on merits. It was dismissed in default on 12.9.2017 by the District Judge, Kanpur Nagar in probate case. Hence that decided nothing. The will dated 17.3.2015 remained as it is.

14. The complainant/Hariom Gupta/opposite party no.2 has filed a copy of plaint of Original Suit No. 275 of 2017, which is pending before the Civil Judge (Senior Division), Kanpur Dehat. The plaint and supporting affidavit of said civil suit was verified on 12.10.2017, whereas the FIR of this case has been filed on 13.10.2019. In the said civil suit, both will dated 17.3.2015 as well as 11.1.2017 are subjudice. Hence it is categorically clear that the civil suit which is pending since 2017 between the parties is much prior to lodging of the present FIR dated 13.10.2019.

15. Learned counsel for the opposite party no.2 has placed reliance on the order dated 16.8.2018 which was passed in Original Suit No. 275 of 2017 by the Civil Judge (Senior Division), Kanpur Dehat, where the application of the revisionists (6C-2) filed under Order 39 Rule 1 and 2 CPC has been dismissed, but it does not amount to the finality of civil suit. A Misc. Appeal against the said order dated 16.8.2018 was also rejected by the 7th Addl. District Judge, Kanpur Dehat vide order dated 20.1.2020 in Misc. Appeal No. 10 of 2018. The order passed in continuation of application under Order 39 Rule 1 and 2 that too does not amount to the finality of said civil suit.

16. Learned counsel for the revisionists has relied that the matter in dispute is purely civil nature. The revisionists further relied on an order dated 17.9.2025 passed by the Chief Judicial Magistrate, Gorakhpur in Criminal Misc. Case No. 843 of 2025, where the application of the revisionists under Section 173(4) of BNSS was rejected on the ground that the matter in dispute is of civil nature. Learned Chief Judicial Magistrate had relied upon the law laid down by the Apex Court in **Inder Mohan Goswami Vs. State of Uttranchal; (2007) 12 SCC 1**, wherein the Apex Court held that no permission could be granted for conversion of civil suit into criminal case. It is amounting to misuse of process of law and, therefore, said application was rejected. The revisionists further relied upon a General Assembly list of the year 2016-2017 of Sri Triloki Nath Gupta Smarak Uchchattar Madhyamik Vidyalaya Samiti, wherein Ashish Gupta is shown as son of late Triloki

Nath Gupta. Sri Satish Kumar Gupta as son of late Triloki Nath Gupta and Hariom Gupta as son of Sri Ram Prakash Gupta, whereas the only adopted son is Satish Kumar Gupta. Ashish Gupta and Hariom Gupta are sons of Ram Prakash Gupta and they are not adopted by late Smt. Ramrati Gupta.

17. Learned counsel for the revisionists had further relied and tried to verify the malafide intention of opposite party no. 2; that the opposite party no.2 had filed the present FIR on 13.10.2019 against Shamsher Singh and made allegation, whereas the revisionists have filed death certificate of Shamsher Singh, that Shamsher Singh died on 9.3.2019 much prior to lodging of the present FIR on 13.10.2019. It proves and verifies the malafide intention of opposite party no.2.

18. The Supreme Court in **Sanjay Kumar Rai Vs. State of U.P. and another; 2022 (5) SCC 720** by Three Judges Bench,(authored by Hon. Surya Kant, J) held as under:-

"12. At the outset, we may note that the High Court has dismissed the Criminal Revision on the ground of lack of jurisdiction under section 397 of Cr.P.C. The High Court did not examine the issue in detail to find out whether the continuation of proceedings will amount to abuse of process of law in this case. The impugned order cites the decision of this Court in Asian Resurfacing (supra) wherein it was noted as under:

"…Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C.or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re- appreciate the matter."

13. It appears to us that while limiting the scope of a criminal revision to jurisdictional errors alone, the High Court apparently underappreciated the Judgment in Asian Resurfacing (supra). We say so at least for two reasons. First, the material facts in the abovecited case dealt with a challenge to the charges framed under the Prevention of Corruption Act, 1988 ("POCA"). The cited judgment itself enlightens that not only is POCA a special legislation, but also contains a specific bar under Section 19 against routine exercise of revisional jurisdiction. Second, This Court in Asian Resurfacing (Supra) while expressing concern regarding the need to tackle rampant pendency and delays in our criminal law system, followed the ratio laid down in an earlier decision in Madhu Limaye V. State of Maharashtra as can be seen from the following extract:

> *"27. Thus, even though in dealing with different situations, seemingly conflicting observations may have been made while holding that the order framing charge was interlocutory order and was not liable to be interfered with under Section 397(2) or even under Section 482 CrPC, the principle laid down in Madhu Limaye [Madhu Limaye V. State of Maharashtra, (1977) 4 SCC 551: 1978 SCC (Cri) 10] still holds the field. Order framing charge may not be held to be purely an interlocutory order and can in a given situation be interfered with under Section 397(2) CrPC or 482 Cr.P.C. or Article 227 of the Constitution which is a constitutional provision but the power of the High Court to interfere with an order framing charge and to grant stay is to be exercised only in a exceptional situation."*

14. In Madhu Limaye (supra), this Court authoritatively held:

> *"9… Sometimes the revisional jurisdiction of the High Court has also been resorted to for the same kind of relief by challenging the order taking cognizance or issuing processes or framing charge on the grounds that the Court had no jurisdiction to take cognizance and proceed with the trial, that the issuance of process was wholly illegal or void, or that no charge could be framed as no offence was made out on the allegations made or the evidence adduced in Court..*
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> *10. … Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercises for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial.*

15. The correct position of law as laid down in Madhu Limaye (supra), thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of CrPC. That apart, this Court in the abovecited cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforestated jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For

example, when the contents of a complaint or the other purported material on record is a brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law.

16. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [Union of India V. Prafulla Kumar Samal].Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be. It is also held that discharge is a valuable right provided to the accused."

19. It is held by the Supreme Court in **Urmila Devi and others Vs. Balram and another; 2025 SCC Online 1574** that the court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution as no one is permitted to disguise the civil dispute as criminal.

20. Section 397 of Cr.P.C (corresponding Section 438 of BNSS) as well as Section 401 Cr.P.C.(corresponding Section 442 of BNSS) read as under:-

*"**397**. Calling for records to exercise of powers of revision.-(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.*

***401**.High Court's powers of revision.-(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a court of appeal by Sections 386, 389, 390 and 391 or on a Court of Session by Section 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by Section 392.*

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly."

21. The revisionists have filed a civil suit No. 275 of 2017 (Sri Triloki Nath Gupta Uchchattar Madhyamik Vidyalaya Vs. Satish Kumar Gupta and others), which is pending before the Civil Judge (Senior Division), Kanpur Dehat. The parties are contesting the said case. The will dated 17.3.2015 as well as 11.1.2017 are subjudice in the said civil suit. The probate application of the will dated 17.3.2015 which was dismissed in default on 12.9.2017 by the District Judge, Kanpur Nagar, hence, it could not be treated as proper adjudication on merits.

22. In view of the above, legality of the will dated 17.3.2015 is remained as it is. The original civil suit No. 275 of 2017 was filed on 12.10.2017, whereas the FIR of this case has been lodged on 13.10.2019 on the basis of an application under Section 156(3) Cr.P.C. The said civil suit is pending between the parties much prior to lodging of the present FIR dated 13.10.2019. The said civil suit is still pending to be decided on merit. The order on interim application does not amounting to decide the lis pending between the parties. The application under section 173(4) of BNSS filed by the revisionists before the Chief Judicial Magistrate, Gorakhpur in Criminal Misc. Case No. 845 of 2025 was rejected on the ground that the matter in dispute is of civil nature.

24. The opposite party no.2/complainant has filed the FIR in question dated 13.10.2019 against Shamsher Singh and made several allegations against him, whereas Shamsher Singh already died on 9.3.2019 much prior to lodging of the present FIR dated 13.10.2019.

25. In view of all the reasons, facts and circumstances and the law laid down by the Supreme Court (Urmila Devi) (supra), it is categorically held that the court proceedings ought not to be permitted to degenerate into a weapon of harassment or persecution as no one is permitted to disguise the civil dispute as criminal.

26. Hence, the impugned order dated 6.1.2025, passed by the Additional Chief Judicial Magistrate-I, Gorakhpur in Case No. 121071 of 2021 (State Vs. Chandra Prakash Yadav and others) arising out of Case Crime No. 375 of 2019, under Sections 419, 420, 467, 468 and 120-B IPC, Police Station Gorakhnath, District Gorakhpur, so far as it relates to the revisionists, is hereby **set aside** and the revisionists are discharged. The impugned order against accused-Sushil Naroola would be operating and that would be disposed of by the learned trial court in accordance with law.

27. The criminal revision stands **allowed.**

(Abdul Shahid,J.)

November 21, 2025
sfa/

Digitally signed by :-
SYED FAHEEM AHMAD
High Court of Judicature at Allahabad