



2025:AHC:175156

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5961 of 2025

Rajendra Yadav

.....Revisionist(s)

Versus

State Of U.P. And 12 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Anand Vijay Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Sri Satendra Kumar Pandey, learned Advocate, holding brief of Sri Anand Vijay Singh, learned counsel for the revisionist and Sri Rajeev Dhar Dwivedi, learned AGA, for the State, are present.

2. The instant criminal revision has been filed by the revisionist to stay the operation of the impugned order dated 20.8.2025 passed by Additional Chief Judicial Magistrate-I, Ballia in Misc. Case No. 955 of 2025 (Rajendra Yadav Vs. Hansnath Yadav and others) during pendency of the instant appeal.

3. Learned counsel for the revisionist submits that revisionist moved a application against opposite parties no.4 to 9 under Section 173(4) BNSS before the learned Magistrate but by way of impugned order dated 20.8.2025 his application has been dismissed.

4. He further submits that in the application moved under Section 173(4) BNSS revisionist specifically stated that in the year 2015 during inquiry it was found that opposite parties no.4 to 9 illegally run the Educational Institution and they misappropriated the public fund but in spite of that court concerned dismissed his application and thus committed illegality.

5. He further submits that from the application moved by revisionist prima facie cognizable offences are made out against opposite parties no.4 to 9 but in spite of that court concerned dismissed the application moved by revisionist by passing the impugned order dated 20.8.2025.

6. He placed reliance on the judgments of the Apex Court passed in the

cases of **Kailash Vijayvargiya Vs. Rajlakshmi Chaudhuri and others dated 04.3.2023** in Criminal Appeal No.1581 of 2021 and **Priyanka Srivastava and another Vs. State of Uttar Pradesh and others, (2015) 6 SCC 287.**

7. He further submits that as impugned order dated 20.8.2025 is illegal and therefore, after setting aside the same a direction may be given to lodge FIR against opposite parties no.4 to 9.

8. Per contra, learned AGA opposed the prayer and submits that with a very reasoned order learned court concerned dismissed the application moved by revisionist under Section 173(4) BNSS. He next submits that while dismissing the same the court concerned observed that the matter is of the year 2015 but in spite of that after 10 years revisionist moved the application.

9. He further submits that from the impugned order dated 20.8.2025 it could not be reflected that while passing the same learned Magistrate committed any illegality.

10. I have heard learned counsel for the parties and perused the record of the case.

11. The instant revision has been directed against the order dated 20.8.2025 passed by learned Magistrate by which application moved by revisionist under Section 173(4) BNSS has been dismissed.

12. From the impugned order dated 20.8.2025 it reflects that however, by moving application under Section 173(4) BNSS revisionist made serious allegation of misappropriation of public fund against opposite parties no.4 to 9 but it reflects that even according to the revisionist, opposite parties no.4 to 9 committed alleged offences of misappropriation in the year 2015 and application under Section 173(4) BNSS has been moved by him in the year 2025, i.e., after a decade and, therefore, if after observing this fact court concerned dismissed the application moved by revisionist then in view of this Court, court concerned did not commit any illegality.

13. Further, from the record it reflects that entire allegation levelled against opposite parties no.2 to 9 is based on enquiry report dated

27.3.2016 submitted by Chief Development Officer, Ballia which has been annexed by revisionist along with his application moved under Section 173(4) BNSS and from its perusal it reflects that the alleged report is with regard to cancellation of the recognition, if any, given to the institution run by opposite parties no.4 to 9 and this report is not for registration of the FIR or commission of any criminal offence, therefore, in view of this Court merely on this basis, after nine years, a direction cannot be given on the application moved by revisionist to register the case and investigate the matter against opposite parties no.4 to 9.

14. Further, even from the application moved by revisionist it reflects that the entire allegation prima facie appears to be vague and general in nature and therefore, in view of this Court on the basis of allegation after a decade, no direction can be given against an individual to lodge FIR and to investigate the matter.

15. Further, however, learned counsel for the revisionist placed reliance on two judgements of the Apex Court passed in **Kailash Vijayvargiya (supra)** and **Priyanka Srivastava (supra)** but both the judgments cannot be beneficial for him as even from the perusal of these judgements it reflects that learned Magistrate cannot pass an order on the application moved under Section 156(3) Cr.P.C.[173(4) BNSS] in routine manner and his application of mind is necessary. In case at hand, from the impugned order it reflects, learned Magistrate while passing impugned order applied its judicial mind.

16. Law is settled, if application under Section 173(4) BNSS discloses cognizable offence then FIR should be registered but in case at hand, the allegation with regard to alleged cognizable offence committed by opposite parties no.4 to 9 are based on vague facts and further application was moved by revisionist after more than a decade, therefore, in my view, while rejecting the application moved by revisionist learned Magistrate did not commit any illegality.

17. Therefore, considering the facts and circumstances of the case discussed above, in my view, the instant revision is devoid of merit and is liable to be dismissed.

18. Accordingly, the instant revision is dismissed.

(Sameer Jain,J.)

September 26, 2025
SKM