

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Cr. Revision No.89 of 2024

Reserved on 15.09.2026

Decided on 25.09.2026

Uploaded on : 25.09.2026

Dev Raj

...Petitioner

Versus

Alok Kumar & Anr.

.....Respondents

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting? Yes ¹

For the Petitioner : Mr. Praveen Chandel, Advocate.

For the Respondents : Mr. Ankush Dass Sood, Senior Advocate with Mr. Ankit Dhiman, Advocate, for respondent No.1.

Mr. Lokender Kutlehria, Additional Advocate General, for respondent No.2/State.

Chirag Bhanu Singh, Judge

The petitioner has preferred the present revision assailing the order dated 16.10.2023, passed by learned Judicial Magistrate First Class, Rajgarh, Camp at Sarahan, District Sirmaur, H.P., (hereinafter referred to as the learned trial Court), whereby his application filed under Section 156(3) of the Code of Criminal Procedure stands dismissed.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. In brief, the genesis leading to the dismissal of the aforesaid application may be succinctly summarized thus. The petitioner had preferred the complaint inter-alia alleging that the accused/respondent though was the son of one Shri Babu Ram and his date of birth has been recorded as 21.10.1971, but, he in connivance and collusion with the Panchayat had got himself recorded, as Alok Kumar son of Shri Swaroop Singh in place of Alok Kumar son of Shri Babu Ram. The fact that the accused/respondent was the son of Shri Babu Ram and has also been duly recorded in the Panchayat, as well as, the school records.

3. It is further averred by the petitioner that a Will dated 27.01.1999, was executed by Shri Swaroop Singh and respondent No.1, had been shown, as his nephew. However, in a Family Settlement Deed No.709/2013, dated 31.08.2013, accused/respondent has been reflected, as son of Shri Swaroop Singh. The accused-respondent had thereafter, also obtained agriculturist certificate bearing No.1102 NT-3758-2013, dated 30.08.2013, intentionally and deliberately by giving a false declaration that he was son of Shri Swaroop Singh. The respondent-accused had also

procured a false report from the revenue agency for wrongful gain knowing-fully well that the accused-respondent was the son of Shri Babu Ram.

4. It is further averred by the petitioner himself that the Will bearing No.87/16, dated 05.07.2016, registered before the Sub Registrar, Pachhad, District Sirmaur, H.P., is stated to be executed by Shri Swaroop Singh who himself had stated that he was having only one son namely, Alok Kumar (respondent) and had no more children.

5. The aforesaid Deeds were stated to be wrong, illegal, void, manipulated, suspicious, fabricated and a result of fraud having been prepared by the respondent-accused, in collusion and connivance with the scribe of marginal witnesses. No adoption of any kind have been taken place between Shri Swaroop Singh and accused-respondent.

6. It was thus, prayed that since a prima-facie case has been made out against the accused/respondent, under Section 465, 467 and 420-B of the IPC, an appropriate legal action be initiated against respondent/accused.

7. The learned trial Court, after having sought the affidavit from the petitioner and after having heard and

perused the record went on to dismiss the application, hence, the present revision.

8. Based on the aforesaid allegations, it is the contention of the petitioner that the learned trial Court without holding any inquiry has wrongly dismissed the application. It has failed to appreciate that no document regarding any valid adoption had been placed on record. It was urged with vehemence that the learned trial Court has passed a non-speaking order and failed to appreciate that civil and criminal proceedings may go on simultaneously. There was sufficient material on record disclosing a cognizable offence. The learned trial Court has failed to appreciate the documents in its right perspective. The learned Court below without any preliminary inquiry has come to the conclusion that the settlement deed was valid.

9. Per contra, the learned counsel appearing for the respondent urged that he had sought a stay against the petitioner on 18.01.2023. Since the petitioner did not pay any heed to the stay, he had been constrained to report the matter to the police on 05.02.2023 and as a counter blast, the complaint has been filed by the petitioner. While filing

the complaint, the petitioner had very cleverly failed to refer the civil suit and the status quo order passed against him. It was further urged that the petitioner had failed to mention in the complaint, preferred under Section 156(3) of the Cr.P.C., that he had also even earlier approached the police. There is no such averment in the complaint. The learned Court below had after due deliberations and after seeing the record placed on record by the petitioner himself come to the conclusion that no cognizable offence was made out, and the learned trial Court was well within its right, dismissed the complaint at the threshold.

10. Having heard the rival contentions of learned counsel for the parties and after gone through the record, the learned trial Court came to the conclusion that the petitioner had placed on record enumerable documents. The learned trial Court after having sought an affidavit from the petitioner and having heard and perused the record had passed the impugned order. The mere using of the word heard, “Record perused” will reflect that the learned trial Court had applied his mind to the facts alleged in the complaint. If such statement recorded by the learned trial Court is in order,

under Section 156(3) Cr.P.C., there may not be much scope for the petitioner, as in the instant case, the challenge in the correctness of such order on the ground that the learned trial Court had passed it mechanically, without applying his mind to the facts alleged in the complaint.

11. In this behalf support can be aptly drawn from the judgment titled as **Y.N. Ramachandra Rao versus M/s CCI Limited (2011) Cr. Law Journal 1073.**

12. The perusal of the documents placed on record by the petitioner himself shows that accused/respondent, has been shown as son of Shri Swaroop Singh in the Will, dated 05.07.2016, along with agriculture certificate placed on record. The settlement deed prepared by Shri Swaroop Singh, himself and placed on record by the petitioner also reflects Alok Chauhan, as his son. The Nakal Parivar Register placed on record by the petitioner himself shows that in the Goshawara, after between 31.12.2010 to 31.12.2015, the parentage of accused/respondent, Alok Chauhan had been shown, as Swaroop Singh. The name of Alok Chauhan had been removed from the Parivar Register of Shri Babu Ram and reflected in the Parivar Register of Shri Swaroop Singh

and thereafter, he came to be consistently reflected in the Parivar Register of Shri Swaroop Singh. The petitioner himself had placed these documents on record, which had been duly considered by the learned trial Court.

13. Seemingly a further corroborated by the documents placed on record before this Court. After having considered the documents on record, since the learned trial Court came to the conclusion that the allegations in the complaint do not disclose any cognizable offence, the learned trial Court had dismissed the application. Preferring such a complaint to the police for investigation would have been an order without jurisdiction. After having considered the documents placed on record, if the learned trial Court comes to the conclusion that no cognizable offence is made out, the learned trial Court would be well within its right to dismiss the complaint at the threshold. The said proposition is more than settled in law.

14. Even otherwise, one another aspect, which conspicuously comes to the Court is that the petitioner in his complaint has nowhere spelt out that he had approached the police, under Sections 154(1) & 154(3) of the Cr.P.C., there is

not a whisper in the complaint in this regard. The bare perusal of Section 154(1), is suggestive of the fact that any information relating to the commission of a cognizable offence, in the first instance, has to be given to the Officer Incharge of the Police Station and in case, a person has aggrieved by the refusal on the part of the Officer Incharge of the Police Station to record the FIR, he may approach the Superintendent of Police concerned. There is nothing on record to remotely show that the petitioner had approached the Officer Incharge of the Police Station. A feeble attempt was made to prove that the petitioner had approached the Superintendent of Police, but no action had been taken by him. The said complaint is stated to have been made on 13.06.2023 and the date on the complaint however, preferred before the learned trial Court was on 12.06.2023.

15. The learned counsel for the respondent has thus, highly placed reliance of the judgment of the Hon'ble Supreme Court in **Priyanka Srivastava and another versus State of Uttar Pradesh and others**, reported in **(2015) 6 Supreme Court Cases 287**, which inter-alia clearly held that it is incumbent to move an application under Section 154(1)

and 154(3) of Cr.P.C., before filing a petition under Section 156(3) of Cr.P.C. and the said aspect was also clearly spelt out in the application/complaint and necessary documents to that effect also had to be filed along with the complaint. It may be apposite to reproduce para-31 of the aforesaid judgment, which reads thus:-

“31. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.”

13. There is nothing on record to remotely suggest that anything has been highlighted by the learned counsel appearing for the petitioner to prove that the learned trial Court had not applied his mind, before coming to the conclusion that no cognizable offence was made out against

the respondent. In fact, the documents placed on record by the petitioner itself are suggestive of the fact that not only Shri Swaroop Singh made a settlement deed showing the respondent to be his adopted son, but even the Goshwara of the Parivar Register also goes to show that the name of the respondent had been removed from the household of Shri Babu Ram and included in the name of Shri Swaroop Singh.

14. Further during the course of the present proceedings, the marriage card of the respondent, legal heirs certificate, the pension papers of Shri Swaroop Singh and the documents of the Municipal Corporation, clearly spelt out that Alok Kumar has been shown to be son of Shri Swaroop Singh.

15. Seeing to the fact that the parties were already embroiled in civil litigation, as has been discussed hereinabove, it cannot be ruled out that the present criminal proceedings initiated by the petitioner was initiated as a ploy to settle scores with the respondent or pressurize him to settle civil dispute pending between them.

16. Even otherwise, if the allegations made by the petitioner are taken at its face value, apparently, the

provisions of Section 464, are still not attracted. Section 464 defines, as under:-

“Section 464 defining “making a false document” is extracted below:

“464. Making a false document—A person is said to make a false document or false electronic record—

First — Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any electronic signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature,

with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly — Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly — Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.”

17. The perusal of the allegations against the respondent nowhere shows that he had either himself signed or executed any of documents to make him fall within the purview of Section 464 and likewise, the condition precedent for offences under Sections 467 and 471 of IPC, is forgery. There is nothing on record to remotely show that the respondent had forged any of the documents purportedly placed on record. There is nothing placed on record by the petitioner that the respondent had made or executed any of these documents claims to be someone else, or had authorized someone else to alter or tamper the documents or at least obtained some documents by practised deception on some other person. It was not sufficient for the petitioner to prove that the document had been made or executed dishonestly or fraudulently to make it fall under the category of “false documents”. There was something further which was required to have been proved that it was made with the intention of causing it to be believed to be true and correct. The provisions of Sections 467 and 471 of IPC, thus, were not otherwise, prima-facie attracted. In this behalf a support can be aptly drawn by judgment of the Hon’ble Supreme Court

titled as **Mohammed Ibrahim and others versus State of Bihar and another**, reported in **(2009) 8 Supreme Court Cases 751**.

18. For all the reasons detailed herein-above, I see no reasons to differ with the findings recorded by the learned trial Court. The order dated 06.10.2023 passed by the learned Judicial Magistrate First Class, Rajgarh, camp at Sarahan, District Sirmaur, is affirmed. The revision petition is thus, dismissed, being devoid of any merits.

19. The petition is disposed of accordingly, so also the pending application(s), if any.

(Chirag Bhanu Singh)
Judge

25th September, 2026
(subhash)