



2026:AHC:56106

Reserved on 22.01.2026

Delivered on 18.03.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 34534 of 2017

Jagdeesh Prasad

.....Applicant(s)

Versus

State of U.P. and
Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	A.C. Srivastava, Ravitendra Pratap Singh Chandel
Counsel for Opposite Party(s)	:	G.A.

with

APPLICATION U/S 482 No. - 40887 of 2014

Raj Kumar Nagar

.....Applicant (s)

Versus

State of U.P. and
Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Anand Srivastava, Ravitendra Pratap Singh Chandel, Sushil Shukla
Counsel for Opposite Party(s)	:	Adarsh Bhushan, Got. Advocate, Neerja Singh, Sharve Singh

Court No. - 83

HON'BLE SUBHASH CHANDRA SHARMA, J.

1. Heard Sri Sushil Shukla, learned Senior Counsel assisted by Ms. Sarita Singh, learned counsel for the applicants as well as learned counsel for the opposite party alongwith learned A.G.A. for the State.
2. Both the applications, related to the same judgment & order are being heard together and decided by this common order.
3. The application under Section 482 Cr.P.C. No. 34534 of 2017 has been preferred with a prayer for quashing the impugned order dated 30.08.2014 passed by learned Additional Session Judge/Special Judge (SC/ST Act) in Criminal Revision No. 116 of 2013 arising out of Criminal Case No. 273 of 2013 under Sections 420, 467, 468, 471 I.P.C., Police Station Kasna, District Gautam Budh Nagar (Smt Kusum Vs. Jagdish and others) against the applicant and further prays to stay the further proceedings in the aforesaid case during the pendency of present application.
4. The application under Section 482 Cr.P.C. No. 40887 of 2014 has been preferred with a prayer for quashing the impugned order dated 30.08.2014 passed by learned Additional Session Judge/Special Judge (SC/ST Act) in Criminal Revision No. 116 of 2013 arising out of criminal Case No. 273 of 2013 under section 420, 467, 468, 471 IPC PS Kasna District Gautam Buddh Nagar (Smt Kusum v. Jagdish & others) against the applicant and further prays to stay the further proceedings in the aforesaid case during the pendency of present application.

5. Facts in brief are that the informant/opposite party no. 2 moved an application to S.S.P. to direct the Incharge Kotwali kasna to register a case against the applicants on which at the direction of S.S.P. dated 07.09.2011, Case Crime No. 601 of 2011 under Sections 420, 467, 468, 471 I.P.C. was registered against accused Jagdeesh Prasad, Baljeet Singh Nagar, Raj Kumar Nagar and other persons. The informant mentioned in the F.I.R. that she became member in Vidhi Vihar Sahkari Awas Samiti Limited, Noida in the year 2000. On demand by the secretary of the society, the cost for a plot measuring 400 square meter was realized. In the year 2007, a plot measuring 170 square meter was allotted to her on the place of 400 square meter. The accused persons prepared forged documents, receipts and her affidavit and got the allotment cancelled. They committed several other irregularities and grabbed money of the society and also committed illegality in allotment of plots. The case was investigated by the I.O. and no case was found to be established against the applicants that was the reason final report was filed. On which notice was issued by the learned Magistrate and protest was filed by the informant and after hearing the informant the learned court of Magistrate accepted the final report and rejected the protest application by passing the order dated 13.06.2013 against which criminal revision was filed which was allowed by order dated 30.08.2014 that is in question in the present applications.

6. It is submitted by learned counsel for the applicants that in this case during the course of investigation no any material was found to establish prima facie case against the applicants. The informant herself submitted an application for membership of the society representing herself to be an Advocate though she was not, that was the reason membership was granted and when this fact came into the

knowledge of the society her membership was terminated after giving her proper opportunity of hearing through notice by registered post. Being aggrieved with the termination of her membership from the society she lodged the first information report against the applicants with false statements stating that the affidavit said to be given by the informant for membership of the society was prepared by the applicants by committing forgery and the postal receipts were fabricated by them for the purpose of terminating her membership. During the course of investigation the I.O. investigated all these issues. He made approach to the notary who clearly stated that the affidavit was sworn by the informant herself and he verified the contents mentioned in it. He also verified about the postal receipts issued from the post office though the record was already weeded that was the reason this fact could not be verified properly but it was found that when the computer in the post office was in disorder the postal receipts were issued manually. Nowhere, it was found by the I.O. that the postal receipts were fabricated by the applicants. No any employee of post office disclosed any such fact before the I.O. The informant herself concealed the fact of not being an Advocate at the time of applying for membership of the society. In this way, the informant herself was at fault. When after investigation final report was filed by the I.O. further investigation was also directed to be made by the Circle Officer and then by S.S.P. but no offence was found to be committed by the applicants, as a result again final report was filed by the Investigating Officers. The learned Magistrate issued notice to the informant who filed protest application narrating contents as mentioned by her in the F.I.R. regarding preparation of affidavit by applicants and also fabrication of postal receipts. The learned Magistrate perused the material collected during the course

of investigation and also considered the contents of protest application and passed the order in detail while rejecting the protest application and accepted the F.R. There was no any illegality or impropriety in the order. He further submits that the informant filed a criminal revision against the order passed by the learned Magistrate in which the learned revisional court has set aside the order holding that there was sufficient material on record about fabrication of postal receipts and preparation of affidavit but it was not based on the material on record as collected during the course of investigation by the I.O. In this way, the learned Revisional Court has committed apparent error while passing the order in question and is liable to be set aside.

7. Learned counsel for the opposite party as well as learned A.G.A. opposed the prayer as aforesaid and contended that the learned Revisional Court has passed the order in question after perusing the record and getting the order passed by the learned Magistrate illegal. The learned Magistrate did not take note of the contents on protest application filed by the opposite party no. 2/the informant about forged affidavit prepared by the applicants and also fabrication of postal receipts. In this way, the learned Revisional Court has committed no error in passing the order dated 30.08.2014 and setting aside the order passed by the learned Magistrate on 13.06.2013 by which it has set aside the order passed by the learned Magistrate.

8. On receiving final report, the learned court of A.C.J.M. Ist, Gautam Buddha Nagar issued notice to the informant on which she filed protest application stating that the I.O. has filed final report

without making proper investigation on specific points. The learned court concerned passed the order on 13.06.2013 in detail going through the material on record and also the contents of protest application filed by the informant. It was found that final report no. 86/12 was filed by I.O. on 16.03.2012 on which Circle Officer directed him to make further investigation. In pursuance to the order passed by the Circle Officer further investigation also culminated into final report. S.S.P. also directed to make investigation on merit and the Investigating officer filed final report on 30.03.2012 and no offence was found to be established against the applicants. It was also found that for membership of the society the candidate was required to be an Advocate but at that time the informant did not have degree of law and was not an Advocate that was the reason her membership was terminated as she had filed false affidavit and declaration stating herself to be an Advocate. No any material was found during the course of investigation about the preparation of affidavit of informant to be fabricated by the applicants since affidavit was sworn before the notary advocate who affirmed the fact of signature of the informant and also established the fact that she herself prepared the notary affidavit and after swearing it before the notary Naveen Chandra Sharma, Advocate, she filed it before the society for membership. Before termination of her membership she was given notice. The postal receipts were said to be fabricated by the informant but when this fact was verified from the post office by I.O. it was found that these receipts were given to the applicants by Munshi Babu Ram and he told that postal clerk Shyam Pandey issued those receipts to him manually since computer was not in order. The Investigating Officer further tried to verify this fact but it was found that record in relation to issuance of receipts was weeded

within 18 months whereas 3 years had elapsed from the date of issuance of those postal receipts but it was not reported by the postal department that those receipts were fabricated or not issued from the post office. In this way, the receipts said to be fabricated by the applicants could not be established. Considering all these facts the learned Magistrate has passed the order in question and accepted the final report while rejecting the protest application filed by the informant.

9. Against this order criminal revision was filed by the informant by which order dated 13.06.2013 passed by the learned Magistrate was set aside against which these applications have been preferred before this Court. The learned Revisional Court has recorded the finding that there is sufficient evidence present in the case diary regarding fabrication of postal receipts on the basis of which membership of informant was terminated by the applicants but this fact was not taken into consideration by the learned court and order was passed on final report while rejecting the protest application filed by the opposite party no. 2/the informant. In this regard, it is to note that the Investigating Officer verified this fact by making approach to the post office concerned but it was found that the postal receipts were issued prior to 3 years whereas the record was weeded within 18 months, as a result original record was not available in the post office and it was also found that manual receipts were issued by the post office when computer was in disorder. Nowhere, it was disclosed by the employees of the post office that those postal receipts were fabricated or forged. He also found that at the time of submission of application and swearing of affidavit regarding the informant being an Advocate she was not registered in the Bar

counsel and she was not an Advocate but student. Likewise the Investigating Officer made query with the notary Naveen Chandra Sharma Advocate who verified the contents of the affidavit sworn by the informant and stated clearly that the affidavit was sworn by the informant herself and he testified the contents of the affidavit. In this way, it becomes evident that the learned Magistrate has passed the order in question in detail after going through the material collected during the course of investigation and the contents as made by the informant in her protest application but the learned Revisional Court has passed the order dated 30.08.2014 only on the basis of statement as made by the informant in her protest application and not based on the material collected during the course of investigation by the Investigating Officer.

10. In considered opinion of this Court, the conclusion as drawn by the learned Magistrate while passing the order dated 13.06.2013 cannot be said to be erroneous or against the material available on record as collected by the I.O. during the course of investigation but the learned Revisional Court has committed error in passing the order in question, as a result these applications succeed and the order dated 30.08.2014 passed by the learned Revisional Court in Criminal Revision No. 116 of 2023 being illegal and inappropriate is liable to be set aside.

11. Accordingly, these Applications under Section 482 Cr.P.C. Nos. 34534 of 2017 and 40887 of 2014 are hereby ***allowed*** and the order passed by the learned Additional Session Judge/Special Judge (S.C./S.T. Act) dated 30.08.2014 in Criminal Revision No. 116 of 2013 (Smt Kusum Vs. Jagdish and others) arising out of Criminal

Case No. 273 of 2013 under Sections 420, 467, 468, 471 I.P.C., Police Station Kasna, District Gautam Budh Nagar is hereby set aside and the order passed by learned Magistrate dated 13.06.2013 is affirmed.

(Hon. Subhash Chandra Sharma, J.)

March 18, 2026
Suraj Srivastav