



2025:UHC:6054

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 2526 of 2023

14 July, 2025

Vinod Kumar

--Applicant

Versus

State Of Uttarakhand & others

--Respondents

Presence:-

Mr. Vinay Bhatt, learned counsel for the applicant.

Mr. S.C. Dumka, learned AGA along with Ms. Sweta Badola
Dobhal, learned Brief Holder for the State.

Hon'ble Pankaj Purohit, J.

Heard on restoration application (MCRC No.4/2025).

1. The restoration application has been filed by the applicant for recalling the order dated 11.06.2025 and to restore the C482 application to its original number.
2. It is submitted by learned counsel for the applicant that the restoration application is within time. He further submits that since the case, due to a *bonafide* mistake, was not noted by the counsel for the applicant, he could not appear before the Court on the fixed date.
3. Learned State Counsel has not seriously opposed the restoration application.
4. The reasons which have been assigned by learned counsel for the applicant in affidavit, filed in support of the restoration application, are sufficient



enough. Accordingly, restoration application is allowed.

5. Order dated 11.06.2025 is hereby recalled. The C482 application is restored to its original number.

6. The present C482 application is directed against the judgment and order dated 06.09.2023 passed by 4th Additional Sessions Judge, Haridwar in Criminal Revision No.100 of 2023 and the applicant may be permitted to file the certificate under Section 65-B of Evidence Act before the Investigating Office or before the Chief Judicial Magistrate, Haridwar.

7. Facts in a nutshell are that applicant filed an Original Suit No.171 of 2020 before the court of Civil Judge (J.D.), Haridwar for restraining respondent no.3 from evicting the applicant from shop in-question and the learned Civil Judge passed an order dated 27.11.2020 directing respondent no.3 not to evict the applicant from the shop in-question. Despite the aforesaid order, respondent no.3 and his son along with 7-8 persons on 15.04.2021 at 07:30 p.m. came to the shop of the applicant and forcibly broken the lock of the shop and started beating the applicant and his wife and did obscene acts with the wife of the applicant. Again on 16.04.2021 at about 12:00 p.m., respondent no.3 along with his accomplices came to the shop and at that time, applicant was not present in the shop, they broke the lock of the shop and stole all the goods and took it away. Thereafter, applicant filed a complaint against respondent no.3 and others and an FIR was lodged against them on 16.04.2021, under Sections 147, 323, 504, 354, 454 & 380 IPC at



Police Station Jwalapur, District Haridwar.

8. After investigation, charge-sheet was submitted by the police against the accused persons. Thereafter, learned Magistrate took cognizance on the charge-sheet and summoned the accused persons on 23.09.2022 in Criminal Case No.11238 of 2022, *State vs. Upendra Chaudhary & others*. Thereafter, three accused persons-respondent nos.2, 3 & 4, namely, Smt. Amrita, Smt. Bindiya Goswami and Anmol Agarwal had preferred a criminal revision before the court of District and Sessions Judge, Haridwar. The revisional court vide order dated 06.09.2023 partly allowed the revision-petition and the order dated 23.09.2022 was quashed in respect of accused persons-respondent nos.2, 3 & 4 and directed the trial court to take cognizance after hearing the prosecution as well as the investigating officer. Feeling aggrieved, applicant is before this Court.

9. Learned counsel for the applicant submits that from the CCTV footage, it is evident that respondent nos.2 to 4 are present at the time of occurrence. The CCTV camera was installed at the shop of the applicant, which was taken by the accused persons, but the recording of the same was with the applicant in DVR (Digital Video Recorder). He further submits that since the applicant had no knowledge and the Investigating Officer did not inform him to produce the certificate under Section 65-B of the Evidence Act, the applicant should not suffer due to the mistake of the Investigating Officer. He also submits that the revisional court did not consider the material aspect of the case and passed the order in a



very casual and cursory manner and without application of mind, therefore, the order of revisional court is not sustainable in the eyes of law and the same is liable to be quashed.

10. State has filed its objection. In the objection, it is stated that the revisional court has formulated a question in its judgment that the names of accused Bindiya Goswami, Amrita and Anmol Agarwal have been mentioned, but the case diary does not reflect how their names has been inducted in the investigation nor any specific role has been assigned by the Investigating Officer. It also stated that the order under challenge is purely based on the judicial approach of the revisional court.

11. Heard learned counsel for the parties and carefully perused the entire material available on record.

12. The revisional court in its order stated that the trial court merely observed that it found *prima facie* sufficient evidence after perusing the documents available on record to take cognizance, which appeared to be a routine/mechanical order. Further, the trial court did not consider how the names of accused Bindiya Goswami, Amrita and Anmol Agarwal emerged in connection with the incident dated 15.04.2021, a point that even the Investigating Officer failed to clarify. Learned revisional court has delved with the issue in great detail and in para 5 & 6 of the impugned judgment and order contained reasoning for the learned revisional court to reach to the finding that there was no material to summon the respondent nos.2, 3 & 4 and, therefore, rightly quashed the



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summoning order in respect of respondent nos.2, 3 & 4, and directed the learned trial court to pass fresh order on the basis of the observations made in the judgment and order impugned and after hearing all the parties. Reasons are quite convincing.

13. Accordingly, there is no perversity in the order impugned which may warrant any interference by this Court. Thus, the present C482 application lacks merit and is hereby dismissed.

14. Pending application, if any, stands disposed of accordingly.

(Pankaj Purohit, J.)
14.07.2025

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