2026:AHC:227129

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4209 of 2025

Kuldeep Mishra

.....Revisionist(s)

Versus

State Of U.P. And 4 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Kamlesh Kumar Tiwari
Counsel for Opposite Party(s)	:	Dharmendra Kumar, G.A.

Court No. - 92

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Rajesh Malviya, holding brief of Sri Kamlesh Kumar Tiwari, the learned counsel for the revisionist, Shri Rajesh Kumar Mishra, the learned AGA for the State and Sri Dharmendra Kumar, the learned counsel for the complainant.

2. By means of the instant revision, the revisionist has challenged the validity of an order dated 20.06.2025, passed by the learned Special Judge, D.A.A. Act/Additional Session Judge, Court No.2, Chitrakoot in Criminal Miscellaneous Case No.120 of 2025 whereby an application under Section 173(4) BNSS filed by the revisionist has been rejected.

3. In the application under Section 173(4) BNSS filed by the revisionist against the opposite party Nos.2 to 5 and 2 unknown persons, the revisionist has stated that while he was present at his residence at about 3:00 PM on 05.05.2025, the opposite party Nos. 2, 3 and 4 came there along with their father (the opposite party No.5) to meet Swati to ascertain as to why had she instituted a case. The revisionist went away towards the back of his house. After some time, he heard some abusive voices. He came running and saw that the opposite party No.5 Ram Sanehi and his son Dinesh (the opposite party No.4) and 2 unknown persons started abusing him as to why was he not sending Swati to her matrimonial home. The complainant stated that he had a record of a conversation held through mobile phone wherein he and Swati requested to take her to her matrimonial home and get her treated whereupon Swati's husband Lavlesh (the opposite party No.2) and his brothers Suresh and Dinesh (the opposite party Nos.3 and 4) said in an

abusive language that they would not keep her in her matrimonial home.

4. The complaint alleged that the accused persons snatched away a gold chain weighing about 10 grams from the neck of the complainant and the two unknown persons took away a hand-bag kept in a cement almirah in which Rs.20,000/- were kept. The complaint further stated that Vinod Kumar Tripathi son of Ram Balak, Rajan son of Bhonda and other passers-by had witnessed the incident and intervened in the matter. The complaint was supported by an affidavit of the revisionist.

5. The record reveals that the revisionist's daughter Swati Dubey has filed an application under Section 173(4) BNSS in Police Station- Kotwali Karwi, District Chitrakoot against her husband Lavlesh, father-in-law Ram Sanehi, mother-in-law Prabha Devi, brother-in-law Suresh and sisters-in-law Pooja and Rita, alleging ill-treatment in her matrimonial home.

6. The trial court has rejected the application under Section 173(4) BNSS filed by the revisionist by the impugned order dated 20.06.2025 recording that no case for investigation is made out from the allegations leveled in the complaint.

7. The trial court has recorded that no evidence has been annexed to the application regarding any treatment having been undergone regarding the injuries suffered in the incident. There is an allegation that a gold chain was snatched away but there is no mention as to from where was the chain purchased and receipt of its purchase has not been annexed. Details of currency notes kept in the handbag which was allegedly looted have also not been given.

8. In the case of **Lalita Kumari v. Government of U.P.**; (2014) 2 SCC 1, the Hon'ble Supreme Court has laid down the following law:

> *"**Conclusion/Directions:***
> ***120.** In view of the aforesaid discussion, we hold:*
> ***120.1.** The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*
> ***120.2.** If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*

> ***120.3.*** *If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*
>
> ***120.4.*** *The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.*
>
> ***120.5.*** *The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*
>
> ***120.6.*** *As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:*
>
> *(a) Matrimonial disputes/family disputes*
>
> *(b) Commercial offences*
>
> *(c) Medical negligence cases*
>
> *(d) Corruption cases*
>
> *(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.*
>
> *The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.*
>
> ***120.7.*** *While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.*
>
> ***120.8.*** *Since the General Diary/Station Diary/Daily Diary is the record of gall information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."*

9. When a person approaches the police levelling allegations regarding commission of a cognizable offense, the police has to register an FIR and conduct an investigation into the correctness of the allegations. In the present case, the police did not register the FIR and, therefore, the revisionist approached the Magistrate with the application under Section 173(4) BNSS.

The Magistrate has rejected the application on the ground that no evidence has been led in support of the allegations. Evidence is not required to be led at this stage and it will be collected by the Investigating Officer during investigation to be conducted after registration of an FIR.

10. Rejection of the application under Section 173(4) for the reason of non-filing of evidence in support of the allegation appears to be unsustainable in law.

11. Accordingly, the revision is **allowed**. The impugned order dated 20.06.2025 passed by the learned Special Judge, D.A.A. Act/Additional Session Judge, Court No.2, Chitrakoot in Criminal Miscellaneous Case No.120 of 2025 is hereby **set aside**. The application under Section 173(4) BNSS is **allowed**. The Station House Officer, Police Station- Kotwali Karwi, District Chitrakoot is directed to register an FIR on the basis of the allegations levelled in the application under Section 173(4) BNSS filed by the revisionist as Criminal Case No.120 of 2025 in the Court of Special Judge, D.A.A. Act/Additional Session Judge, Court No.2, Chitrakoot, within a period of two days from the date of receipt of a certified copy of this order along with a copy of the application under Section 173(4) BNSS.

November 2, 2026
-Amit K-

(Subhash Vidyarthi,J.)

Digitally signed by :-
AMIT KUMAR
High Court of Judicature at Allahabad