2026:AHC:230755

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7027 of 2026

Smt Afsana

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Kiran Kumar Arora
Counsel for Opposite Party(s)	:	G.A.

Court No. - 85

HON'BLE GARIMA PRASHAD, J.

1. Heard Sri Jai Govind Upadhyay, Advocate, holding brief for Sri Kiran Kumar Arora, learned counsel for the revisionist, and learned AGA for the State.

2. This criminal revision challenges the judgment and order dated 30.09.2026 passed by the Additional Civil Judge (Sr. Div.)-II/Additional Chief Judicial Magistrate, Rampur, in Criminal Misc. Case No. 429 of 2026, whereby the revisionist's application filed under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, was rejected.

3. Learned counsel for the revisionist submits that the application contained specific allegations disclosing cognizable offences in relation to the incident dated 06.06.2026. According to the revisionist, Mohsin, opposite party no. 2, had been pressuring her to divorce her husband and marry him. On the date of the incident, she went to his house with her daughter to complain about his conduct. An unidentified person allegedly took her daughter from her and held a sickle to the child's neck, threatening to kill her if an alarm was raised. Mohsin allegedly took the revisionist into a room at gunpoint and raped her. The revisionist was pregnant, and he allegedly threatened to kill the child in her womb if she resisted. She also alleged that her clothes were torn and that she sustained injuries. She approached the police, but her report was not registered. Her representation sent by registered post to the Superintendent of Police, Rampur, also received no response.

4. The Magistrate called for a police report and a preliminary inquiry

report. The report referred to a dispute between the revisionist and Mohsin concerning succession to and possession of approximately fourteen bighas of land standing in the name of the revisionist's deceased sister, who had been married to Mohsin. The report stated that civil proceedings instituted by both sides were pending and that the allegations had not been substantiated. In paragraphs 10 and 11, the Magistrate relied upon the land dispute, the absence of independent and reliable corroboration, and the absence of medical documents supporting the alleged assault and injuries. On that basis, the Magistrate concluded that no cognizable offence was prima facie disclosed and rejected the application.

5. Learned counsel for the revisionist submits that the allegations concerning the incident required consideration on their own merits. The pending civil dispute did not bar criminal proceedings in respect of the acts alleged. The revisionist also challenges the reliance placed upon the police report and the absence of medical examination to reject her account at this stage.

6. Per contra, learned AGA for the State supports the impugned order and submits that the police report disclosed the civil nature of the dispute. It is contended that the criminal allegations were maliciously made and that the Magistrate rightly declined to proceed in the matter.

7. The allegations of rape, restraint at gunpoint and threats to the revisionist and her children required examination on their own merits. The pending land dispute was relevant to the background, but did not by itself exclude the commission of a cognizable offence. The absence of medical documents and independent corroboration also required consideration with the revisionist's account, including her allegation that the police had declined to register her report. The Magistrate relied upon these circumstances to reject the application without adequately examining whether the specific allegations warranted investigation. The matter therefore requires fresh consideration.

8. Accordingly, the judgment and order dated 30.09.2026 is set aside and the matter is remanded to the Magistrate concerned for fresh consideration in accordance with law. The Magistrate shall consider

afresh whether investigation under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, is warranted or whether the application should be treated as a complaint and proceeded with under the applicable provisions, and pass a reasoned order in accordance with law. The Magistrate shall decide independently, uninfluenced by any observation herein on the merits of the allegations.

9. The revision is partly allowed.

(Garima Prashad,J.)

November 5, 2026
Lbm/-

Digitally signed by :-
LAL BAHADUR MAURYA
High Court of Judicature at Allahabad