IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.5093 OF 2026
(Arising out of S.L.P.(Criminal) No.20382 of 2025)

KAMLESH KUMAR GUPTA ... APPELLANT(S)

VS.

STATE OF U.P. & ANR. ... RESPONDENT(S)

O R D E R

1. Leave granted.

2. The present appeal calls in question the correctness of the order dated 9th August, 2023 in Criminal Miscellaneous Application No.41666 of 2018 passed by the High Court of Judicature at Allahabad. By the said order, the High Court dismissed the quash petition filed by the appellant under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") seeking quashment of the summoning order dated 22nd September, 2018 as well as quashment of further proceedings in Complaint Case No.1804 of 2017/Computer Case No.11421 of 2017 (*Chetram* vs. *Kamlesh Kumar and another)* under Sections 323, 504, and 506 of the Indian Penal Code, 1860 (for short, 'the IPC') pending on the file of the Additional Chief Judicial Magistrate, Court No. 6, Moradabad, Uttar Pradesh.

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Date: 2026.10.28 19:01:42 IST
Reason:

3. The case against the appellant herein was that the informant, respondent No.2, (though served, has chosen not to appear) had purchased a plot of 310 square yards land out of plot No. 70B, 83, and 94M belonging to the appellant after paying a sum of Rs.4,80,000/- (Rupees four lakhs eighty thousand). It is admitted in the 156(3) Cr.P.C. application, which subsequently was registered as a complaint, that the amount was paid purportedly to one Awadesh Chauhan, who was arrayed as a co-accused. It is also alleged that a receipt was obtained on 15th August, 2022 on a notary stamp of Rs.50/- in the presence of one Tulsi and Ejajuddin. The grievance was that, subsequently, sale deed was not executed.

4. It is alleged that the appellant had constructed a house, and when the informant went to demand money, there was an altercation. After registering sworn statements, summons were issued resulting in the filing of the quash petition. The High Court, after noticing the contentions of the parties, summarily dismissed the quash petition by holding that the matter involves disputed questions of facts.

5. We have heard Mr. Chandra Shekhar Yadav, learned counsel for the appellant and Mr. Abhishek Saket, learned counsel appearing for respondent No.1-State.

6. Learned counsel for the appellant submits that the appellant is 82 years old and that the dispute was entirely a civil dispute which has been given a criminal colour. Learned counsel submits that, admittedly, payment was not made to the appellant. It is further submitted that prosecuting the appellant would be a gross abuse of process.

7. During the course of the submission, learned counsel brought to our notice that after the 156(3) Cr.P.C. application was registered as a complaint, a First Information Report being FIR No. 0279 of 2018, was registered on 8th April, 2018 at Police Station Katghar, Moradabad under Sections 420, 323, 504 and 506 of the IPC on the same set of allegations.

8. Mr. Abhishek Saket, learned counsel for respondent No.1-State, has taken us through the FIR. This FIR, after investigation, has resulted in police report under Section 173 Cr.P.C. Parts of the police report annexed to the State's counter affidavit have also been shown to us. The police report was filed on 18th May, 2018.

9. On 23rd October, 2018, the appellant filed Section 482 Cr.P.C. Application being No.38479 of 2018 before the High Court of Judicature at Allahabad, challenging the chargesheet dated 18th May, 2018, which has subsequently

been numbered as Criminal Case No. 7784 of 2018 pending on the file of Chief Judicial Magistrate, Moradabad. On 26th October, 2018, in this Section 482 Cr.P.C. petition challenging the chargesheet, interim protection has been given to the appellant.

10. We are also reminded to point out at this stage that when the matter came up before this Court on 8th December, 2025, we recorded the statement of the learned counsel for the appellant that apart from these proceedings, there are civil suits pending between the parties. Further, that we also wanted to explore an amicable resolution of the disputes through mediation. However, nothing further could be done on that score, since respondent No.2/informant, though served, chose not to appear before this Court.

11. Having considered the overall facts and circumstances, the High Court's order is bereft of reasons. We are also of the opinion that the present application under Section 482 being No.41666 of 2018 ought to be heard together with application (under Section 482) being No.38479 of 2018 pending on the file of the High Court for a comprehensive adjudication of the same.

12. For the reasons stated above, the impugned order is set aside and the application under Section 482 being No. 41666 of 2018 is remitted to the High Court for a

fresh adjudication, to be heard along with application under Section 482 being No. 38479 of 2018.

13. For on 27th January, 2026, we had stayed further proceedings in Complaint Case No.1804 of 2017 (Old No.679 of 2017) pending before the Additional Chief Judicial Magistrate, Court No. 6, Moradabad. Uttar Pradesh. The said order shall continue to operate till the final disposal of the quash petitions before the High Court.

14. The appeal is disposed of in the above terms.

.....J.
(K.V.VISWANATHAN)

.....J.
(ARUN PALLI)

NEW DELHI;
October 26, 2026

ITEM NO.16 COURT NO.11 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 20382/2025

[Arising out of impugned judgment and order dated 09-08-2023 in CRLMA No. 41666/2018 passed by the High Court of Judicature at Allahabad]

KAMLESH KUMAR GUPTA Petitioner(s)

VERSUS

STATE OF U.P. & ANR. Respondent(s)

(FOR ADMISSION and I.R.
IA No. 302572/2025 - EXEMPTION FROM FILING O.T.)

Date : 26-10-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE ARUN PALLI

For Petitioner(s) :
Mr. Chandra Shekhar Yadav, Adv.
Mr. Awanish Sinha, AOR
Mr. Prem Ranjan Kumar, Adv.
Ms. Pakhi Dutta Roy, Adv.
Mr. Desh Ratan Nigam, Adv.
Mr. Sanjib Kumar Mohanty, Adv.

For Respondent(s) :
Mr. Abhishek Saket, Adv.
Mr. Sudeep Kumar- 2779, AOR
Ms. Manisha, Adv.
Ms. Rupali, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal is disposed of in terms of the signed order.

3. Pending application shall stand disposed of.

(ANITA MALHOTRA) (NIKITA SINGH)
DEPUTY REGISTRAR COURT MASTER

(Signed order is placed on the file.)