2026 INSC 817

Non-Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.....2026
(@Special Leave Petition (Crl.) No.4695 of 2026)

Sandeep Shukla

....Appellant

Versus

State of U.P. & Anr.

....Respondents

O R D E R

Leave granted.

2. The allegation, on which the respondent herein initiated the criminal complaint, was that the second respondent was duped with the pretext of a sale of a flat towards which he paid an amount of Rs.10 lakhs in total, by way of two installments. Neither was the money paid back nor was the flat sold to the second respondent, was the allegation. There was also an allegation that the appellant summoned the second respondent on the pretext of refund of money and then assaulted him. On the ground that the money having been handed over in 2019-2020, in 2023 a written complaint was made to the Superintendent of Police by the second

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respondent. No response having been received, he instituted a Complaint Case No.3412 of 2023 before the Chief Judicial Magistrate, Unnao.

3. Statements of the *de facto* complainant and some witnesses were recorded under Section 202 of the Code of Criminal Procedure, 1973 (Cr.PC). After inquiry, the police confirmed that there existed no flat as pointed out by the appellant and submitted the call data records to show that the appellant was present at Lucknow on 06.03.2023, the alleged date of assault. There was also a proceeding under the Negotiable Instruments Act, 1881 with reference to Rs.10 lakhs pending against the wife of a land broker, which is from the same transaction. The Chief Judicial Magistrate dismissed the complaint, holding that the dispute was civil in nature.

4. A criminal revision was filed in which there was a remand made upon which the Additional Chief Judicial Magistrate, Unnao again took up the matter, considered the issues and dismissed the complaint. This order was affirmed in a revision before the Additional District & Sessions Judge, Court No.9, Unnao. The revisional court upheld the order of the ACJM, finding that the

enquiry report of the Police with documentary proof was contrary to the oral testimony.

5. The application filed under Section 482 of the Cr. PC was allowed by the High Court which is impugned herein.

6. Apparently, the appellant herein, impleaded as respondent, was not heard by the High Court. In fact, the High Court dispensed with the notice to the 2nd respondent since he had no right to be heard at the pre-cognizance stage. The High Court should have noticed that if a remand is made, setting aside the order refusing cognizance, then that would necessarily prejudice the person against whom allegations are raised.

7. Another aspect noticed by the High Court was that there was a money transaction found on investigation. If there is a money transaction and the appellant has a demand for its return, the remedy is not to initiate criminal proceedings but to file a civil suit for recovery. As we noticed, the second installment is said to have been made on 27.01.2020 and the first complaint raised before the Superintendent of Police was on 13.03.2023, which is clearly after limitation had expired to file a suit for recovery of money. Time and again this Court has noticed that criminal proceedings are not a

measure of recovery of money and civil disputes cannot be converted into criminal prosecution as an arm-twisting method to coerce the accused arrayed to satisfy the demand of money raised.

8. We find absolutely no reason to sustain the impugned order and set aside the same. The appeal stands allowed, restoring the order refusing cognizance and dismissing the complaint.

9. Pending application(s), if any, shall stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
AUGUST 05, 2026.