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**(2025) 04 UK CK 0732**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application U/s 482 No. 1416 Of 2022

H. P. Verma

APPELLANT

Vs

State Of Uttarakhand And Ors.

RESPONDENT

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**Date of Decision :** 01-04-2025

**Acts Referred:**

Indian Penal Code, 1860 — Section 365

**Citation :** (2025) 04 UK CK 0732

**Hon'ble Judges :** Pankaj Purohit, J

**Bench :** Single Bench

**Advocate :** D.C.S. Rawat, Vikramaditya, Shailendra Singh Chauha, Vikash Uniyal, Harshi Gupta

**Final Decision :** Allowed

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## Judgement

Pankaj Purohit, J

1. Counter affidavit filed by the respondent No.3 is taken on record. Miscellaneous application (IA/1/ 2022) made therefor, is allowed.
2. By means of the present C482 application, the applicant has challenged the judgment and order dated 21.10.2021 passed by learned Sessions Judge, Rudrapur, District Udham Singh Nagar in Criminal Revision No.137 of 2021 H.P. Verma Vs. Rajkumar and Others, and further prayed for a direction to learned Court below to decide the case on the basis of its merits.
3. Learned counsel for the applicant submits that the applicant lodged an FIR regarding his missing daughter on 04.01.2019 under Section 365 IPC. During investigation, applicant came to know that private opposite party (respondent Nos.2 to 5) have harassed the daughter of the applicant and he also suspected that they killed his daughter.
4. Learned counsel for the applicant further contends that despite evidence, the police submitted a closure report which even after, applicant's protest petition

was accepted by the learned trial court, against which, he preferred the revision, which in spite of settled law was dismissed for want of prosecution by learned Revisional Court.

5. In support of his argument learned counsel for the applicant placed reliance upon Para 7 & 8 of a judgment rendered by Hon'ble Supreme Court in the case of Madan Lal Kapoor Vs. Rajiv Thapar and Ors., reported in (2007) 7 SCC 623. According to which, the criminal appeal and criminal revision cannot be dismissed in default. Para 7 and 8 are quoted below for ready reference:-

"7. In Parasuram Patel and Anr. V. State of Orissa: (1994) 4 SCC 664 the Supreme Court held that a criminal appeal cannot be dismissed for default.

8. In our opinion the same reasoning applies to criminal revisions also, and hence a criminal revision cannot also be dismissed in default."

6. I have perused the order of the learned Revisional Court and also gone through the case law relied upon by learned counsel for the applicant. Since, the impugned order was passed against the settled proposition of law and ignoring the law laid down by Hon'ble Apex Court in the case of Madan Lal Kapoor (Supra), this Court is of the opinion that the application deserves to be allowed.

7. Accordingly, the present C482 application is allowed. Consequently, the judgment and order dated 21.10.2021 passed by learned Sessions Judge, Rudrapur, District Udham Singh Nagar in Criminal Revision No.137 of 2021 H.P. Verma Vs. Rajkumar and Others, is hereby quashed. Let the Criminal Revision No. 137 of 2021 be restored to the file of learned Sessions Judge, Rudrapur, District Udham Singh Nagar, who shall decide the criminal revision on merit, after hearing both the parties.