

**(2011) 10 UK CK 0012**

**In the Uttarakhand High Court**

**Case No :** Criminal Writ Petition No. 129 of 2010 and Stay Application No. 6360 of 2008

Krishan Kumar Sharma

APPELLANT

Vs

State of Uttarakhand, Prushottam Lal and Others

RESPONDENT

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**Date of Decision :** 31-10-2011

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Criminal Procedure Code, 1973 (CrPC) — Section 156(3)

**Citation :** (2011) 10 UK CK 0012

**Hon'ble Judges :** Prafulla C. Pant, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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**Judgement**

Prafulla C. Pant, J.—Heard.

2. By means of this writ petition moved under Article 226 of Constitution of India, the petitioner has sought quashing of the order dated 27.05.2008, passed by Chief Judicial Magistrate, Hardwar, and order dated 14.08.2008, passed by revisional court (Additional District Judge/IIIrd Fast Track Court Hardwar).

3. Brief facts of the case are that, the petitioner (complainant) moved an application u/s 156(3) of Cr.P.C., before the Judicial Magistrate for direction to get the case registered relating two documents regarding which he alleged that the respondent No. 2 and respondent No. 3 have got forged the same. The Magistrate examined the matter, and found that the dispute relating to property is going on between the parties before the revenue authorities. The alleged documents are a unregistered contract deed and a registered sale deed (both old documents).

4. It appears that the petitioner (complainant) did never challenge the documents before the civil court that the same are null and void, nor any court has declared these deeds as forged one. The dispute between the parties is of

civil nature relating to the property. In these circumstances, the Magistrate did not find it proper to direct to register the crime. The revisional court also re-examined the matter, and after hearing the parties concurred with the view taken by the Magistrate.

5. Though, it is not necessary that in each and every case the document must be got declared null and void by the civil court before registering a criminal case with regard to it, but in the facts and circumstances of the present case, this court finds that there are sufficient reasons for which the Magistrate refused to allow the application u/s 156(3) of Cr.P.C. This court does not find any sufficient reason to interfere with the impugned orders passed by the courts below.

6. Learned counsel for the respondents No. 2 and 3 pointed out that contract deed is of the year 1959, and the registered sale deed which is disputed was executed way back in the year 1988. The application u/s 156(3) of Cr.P.C., is moved in the year 2008. The parties were already in litigation before the civil court since 1988, and there is no explanation as to why the criminal case was got not registered for twenty years.

7. Therefore, in the above circumstances, without expressing any opinion as to the validity of the disputed documents, the writ petition is dismissed summarily.