

## Smt. Nag Dai and Others Vs State of U.P. and Another

**Court:** Allahabad High Court

**Date of Decision:** Nov. 10, 1992

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 203

**Citation:** (1992) 34 ACR 736

**Hon'ble Judges:** Surya Prasad, J

**Bench:** Single Bench

**Advocate:** L. Dabhal, for the Appellant; G.C. Ghildial, for the Respondent

### Judgement

Surya Prasad, J.

This is a criminal revision against the order dated 2nd December, 1983 passed by the learned Sessions Judge. Tehari

Garhwal in Criminal Revision No 27 of 1983 allowing the revision filed by the opposite party No. 2 and modifying the order passed by the Chief

Judicial Magistrate, Tehari Garhwal in Criminal Case No. 364 of 1983

2. Heard the learned Counsel for the parties at length and perused the record.

3. The complainant has made a complaint against as many as 14 persons. The evidence is the same against all of them. The learned Chief Judicial

Magistrate concerned has, however, summoned only 1 to 8, out of 14 persons. He has not summoned 9 to "4 persons/accused, who are

revisionsists in the present revision. This indicates that the learned Chief Judicial Magistrate concerned has impliedly dismissed the complaint

against those revisionsists. Section 203 Code of Criminal Procedure reads as under:

203. If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry OF investigation (if

any) u/s 202 the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he

shall briefly record his reasons for so doing.

4. The learned Chief Judicial Magistrate has not recorded any reason for impliedly dismissing the complaint or for not summoning the revisionists

and, therefore, he has not followed the mandatory provisions of the aforesaid Section 203 Code of Criminal Procedure in passing the order dated

3rd October, 1983.

5. I have gone through the impugned judgment and order passed by the learned Sessions Judge in revision filed against the aforesaid order dated

3rd October, 1983. The learned Sessions Judge has not committed any illegality, material irregularity or impropriety in passing the impugned order.

The contention of the learned Counsel for the revisionists to the contrary is not tenable.

6. All the revisionists are women. The learned Chief Judicial Magistrate will summon them along with all the co-accused for a particular date. The

revisionists should not however, be put to any humiliation or harassment Therefore, the learned Chief Judicial Magistrate is directed to dispose of

their bail application/applications same day, bail them out on each of them furnishing personal bond to his satisfaction. He is also directed to

dispense with their personal attendance through their counsel. They (revisionists) will, however, present themselves in the court as and when

required during the trial.

7. With the above observations the revision is dismissed. The impugned order is upheld. The stay order dated 9th February, 1984 is vacated. Let

the lower court record be sent back to the court concerned at once so as to enable it to proceed with the case in accordance with law.