

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 19272 of 2023

Petitioner :- Baboo Nandan

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Abhinav Singh,Ajeet Dixit

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Learned counsel for the petitioner points out that the impugned FIR has already been quashed at the instance of co-accused in Criminal Misc.Writ Petition No.18098 of 2023 (Avdhesh Ram vs. State of UP and 3 others) vide following orders:

- "1. Heard learned counsel for the petitioner and learned A.G.A. for the State.*
- 2. The instant writ petition seeks quashing of the FIR dated 25.10.2023 giving rise to Case Crime No.611 of 2023, under Section 3(1) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station-Robertsganj, District- Sonbhadra.*
- 3. The contention of the learned counsel for the petitioner is that the approval to the gang chart, which is the basis of the impugned FIR does not reveal an independent application of mind. Such approval to the Gang Chart can only be granted after the District Magistrate has applied his independent mind to the material placed before him including the gang chart, as is the requirement under Rule 16 and 17 of the U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021.*
- 4. Learned AGA has not been rebut the submissions of counsel for the petitioner.*
- 5. Under the circumstances and since there is manifest non compliance of Rule 16 and 17, the impugned FIR cannot be sustained.*
- 6. The writ petition therefore is, allowed. The impugned FIR dated 25.10.2023 giving rise to Case Crime No.611 of 2023, under Section 3(1) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station-Robertsganj, District- Sonbhadra is hereby quashed.*
- 7. It is however, clarified that this order shall not preclude the opposite parties from proceeding afresh against the petitioner strictly in accordance with law, in case, the circumstances, so justify."*

Following the orders passed by co-ordinate Bench of this Court, this petition is, accordingly, disposed of in terms of the above order.

Order Date :- 12.12.2023

LN Tripathi