

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9590 of 2022

Petitioner :- Anil Kumar Soni

Respondent :- State Of U.P. Thru. Prin. Secy. Home And Others

Counsel for Petitioner :- Ram Prakash Singh, Vivek Kumar

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard Ms. Nritika Singh, learned counsel for the petitioner and Shri Dinesh Singh Rana, learned AGA for State-respondents.

2. Personal affidavit of Shri Keshav Kumar, Superintendent of Police, Balrampur filed today is taken on record. In the said affidavit it has been stated that investigation was completed in Case Crime No.08 of 2022 on 04.05.2022 and charge sheet was submitted to the Circle Officer/ Supervisory Authority. The Charge Sheet was filed in Court concerned on 23.11.2022. The Gang Chart was prepared on 29.07.2022 and it was approved in joint meeting on 30.08.2022, that is, before the charge sheet dated 04.05.2022 was filed in Court concerned on 23.11.2022.

3. Learned counsel for the petitioner has stated that it is evident from the said affidavit that even before the charge sheet was filed in Court on 23.11.2022, the Gang Chart was prepared on 29.07.2022 and approved on 30.08.2022, therefore, there was a violation of Rule 10(1) of the Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 which refers to a certified copy of the charge sheet in the bases case to be enclosed along with the gang chart to be approved by the

District Magistrate and the Superintendent of Police in a joint meeting.

4. Learned AGA has placed before this Court on a judgment rendered by a Division Bench of this Court reported in **2023 STPL(Web) 102 Allahabad [2023:AHC:172558-DB]** in the case of **Rahul Saxena alias Bhola/Bholu vs. State of U.P. and 3 others** wherein a similar argument was being raised by learned counsel for the petitioner therein.

5. This Court has dealt with the issue in paragraph nos.8 to 10 of the report and the same are being reproduced herein below :-

"8. We have considered the submissions made by learned counsel for the parties and perused the record. Primarily, the submission of the learned counsel for the petitioner is that the words "certified copy" used in Rule 10(1) means a certified copy issued by the Court. It is, therefore, the contention that till such time the charge-sheet in the base cases has not been filed before the Court, no action on its basis can be taken under the provisions of the Gangsters Act. This is the also import of the two judgments that have been cited by learned counsel for the petitioner.

9. The import of words certified copy have been considered by this Court in the judgment dated 02.05.2023 in Crl. Misc. Writ Petition No. 19638 of 2022 Binni Lala @ Vinod Kumar Jain Vs. State of U.P and others. It has been held as follows:

"The term certified copy has not been defined either in the Indian Penal Code, the Criminal Procedure Code or the U.P. Gangsters and Anti Social Activities (Prevention) Act or the Rules framed thereunder.

"The definition of the phrase as per the Law Lexicon, 3rd Edition, 2012, as follows:-

Certified copy: A copy of a document signed and certified as a true copy by the officer to whose custody the original in entrusted. A certified copy of a deed imports that it is an office copy taken from the record of deeds and certified by the proper officer."

The Law Lexicon also states that a copy, which is certified to be true in terms of Section 76 of the Evidence Act is also a certified copy. It also means an authenticated copy and a certificate issued by an officer is only a written declaration of the fact that the copy is a true copy of the original.

Black's Law Dictionary Eight Edition (South Asian Edition), defines a 'certified copy' as a duplicate of an original, usually an official document, certified as an exact reproduction, usually by the officer responsible for issuing or keeping the original.

.....

Under the circumstances, it is difficult to accept the argument of learned counsel for the petitioner that a certified copy means a copy issued by the Court on payment of charges, as is understood in common parlance. It is not the case of the petitioner that the charge-sheet appended along with gang chart was not certified by the SHO as being a true copy of the original. The gang chart that has been prepared on the basis of the charge-sheet annexed along with it is therefore a valid document and the submission that there was non compliance of the Rule 10(1) of the Rules cannot be accepted.

The second limb of the argument of learned counsel for the petitioner that a charge-sheet on the basis of which a gang chart has been prepared must be one filed in Court and cognizance thereof must have been taken before the same could be relied upon to invoke the provisions of the Gangsters Act is something which is not to be found in the relevant rule namely Rule 10. This argument cannot be accepted also because Rule 5(c) provides that the Gang Chart shall not approved without the investigation in the base case having been completed. An investigation is treated as complete after the investigation officer prepares the charge-sheet and forwards it to his superior for approval."

10. Therefore, the submission of learned counsel for the petitioner that a certified copy means a certified copy issued by the Court has not been accepted in the judgment aforesaid. Accepting the reasoning, the first contention of learned counsel for the petitioner cannot be accepted."

6. This Court is in respectful agreement with the judgment rendered by the Co-ordinate Bench in **Rahul Saxena (supra)**

challenged by the petitioner to the FIR in the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 in this writ petition has been rendered infructuous now that the investigation has been completed and charge sheet has been filed in Court concerned on 14.06.2023 cognizance of which has been taken on 28.06.2023, as is evident from the personal affidavit filed of the Superintendent of Police, Balrampur.

7. In view of the above, the writ petition stands **dismissed**.

Order Date :- 19.12.2023

Arnima