

Neutral Citation No. - 2025:AHC:82094

Reserved on 28.04.2025

Delivered on 17.05.2025

Court No. - 74

Case :- APPLICATION U/S 482 No. - 3812 of 2025

Applicant :- Vinay Dubey Alias Sonu

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kabeer Tiwari

Counsel for Opposite Party :- G.A.

AND

Case :- APPLICATION U/S 482 No. - 1726 of 2025

Applicant :- Devendra Mishra Alias Dabbu Mishra And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- S.M.Faraz I. Kazmi

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Srivastava,J.

1. Since both applications have been filed for seeking same relief and on the same subject matter, hence both are heard and decided together by this common judgment.

2. Heard Sri Kabeer Tiwari, learned counsel for applicant- Vinay Dubey @ Sonu and Sri S.M. Faraz I. Kazmi, learned counsel for applicants- Devendra Mishra @ Dabbu Mishra and Gaurav Gupta, and Sri Sanjay Kumar Singh, learned counsel appearing on behalf of State-respondent.

3. By means of present application under Section 482 Cr.P.C., applicants have sought quashing of chargesheet dated 09.11.2024 as well as cognizance and summoning order dated 14.11.2024 along with supplementary gang-chart dated 06.11.2023 and entire further proceedings of Case No.4555 of 2024 (State of U.P. Vs. Vinay Dubey @ Sonu and others), arising out of Case Crime No.899 of 2021, under Section 3(1) of U.P. Gangster Act, Police Station Farrukhabad, District Farrukhabad,

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pending in the court of learned Special Judge (Gangster Act), Farrukhabad.

4. Brief facts of the present case are that an FIR bearing Case Crime No.899 of 2021, under Section 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 was lodged against Anupam Dubey, Anurag Dubey, Abhishek Rastogi and Pankaj Rastogi and gang-chart was prepared wherein three cases i.e. Case Crime Nos.939 of 2020, 349 of 2021 and 355 of 2021 have been shown against the said accused but applicants were not accused in any of the said cases. During investigation of Case Crime No.899 of 2021, under Section 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986. Meanwhile, during investigation of Case Crime No.939 of 2020 (base case of the present case of Gangster Act), names of applicants were disclosed for the first time as the applicants were not named in Case Crime No.939 of 2020. On the basis of inquiry, names of applicants were added during investigation and chargesheet was submitted on 09.10.2022. After submission of chargesheet, the concerned Investigating Officer prepared supplementary gang chart on dated 19.10.2023 which was approved by concerned Superintendent of Police on dated 03.11.2023 and thereafter by concerned District Magistrate on dated 06.11.2023 and name of applicants were added as accused in Case Crime No.899 of 2021 i.e. the present case wherein first chargesheet was filed on 08.01.2024 against Anupam Dubey, Anurag Dubey, Abhishek Rastogi and Pankaj Rastogi and second chargesheet was filed on 09.11.2024 against applicant.

5. Learned counsel for applicants submitted that the instant FIR bearing Case Crime No.899 of 2021, under Section 3(1) of U.P. Gangster Act has been lodged without mentioning the corresponding provision, mentioning the anti-social activities in which accused in involved and on the basis of which they were named as gangster. It

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has also been argued by learned counsel for applicants that there is non-compliance of mandatory provisions of Rule 5(3)(a) of Uttar Pradesh Gangsters Rules, 2021 which unequivocally mandates convening of joint meeting before initiation of proceedings under the Act of 1986. Learned counsel for applicants also submitted that without application of mind, the concerned police authorities and District Magistrate have forwarded and approved the gang chart in a mechanical manner wherein chargesheet has been preferred and also learned court concerned has taken cognizance and as such, the entire proceedings of Case Crime No.899 of 2021, under Section 3(1) of U.P. Gangster Act, initiated against applicants, may be set aside.

6. In support of his submissions, learned counsel for applicants placed reliance upon the judgements rendered by Division Benches of this Court in the cases of **Asim Vs. State of U.P. and others** [2024 (3) ADJ 360], **Sanni Mishra Vs. State of U.P. and others** [2024 (1) ADJ 231], **Rajeev Kumar @ Raju Vs. State of U.P. and 2 others** [Crl. Mis. Writ Petition No.9428 of 2024, decided on 07.06.2024] and **Abdul Lateef @ Mustak Khan Vs. State of U.P. and others** [Crl. Misc. Writ Petition No.9930 of 2024, decided on 26.07.2024].

7. Per contra, Sri Sanjay Kumar Singh, learned counsel appearing on behalf of State-respondent vehemently opposed the prayer sought through the instant petition and rebutted the stands taken up by learned counsel for applicants on the ground that as per the allegations of the said FIR, it is apparent that applicants were not only associate of gang leader Anupam Dubey but they have also earned movable and immovable properties by illegal means with the help of gang leader, therefore supplementary gang-chart was prepared implicating the applicants on the basis of material available on record which was approved by concerned authorities on dated 06.11.2023 after

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application of mind and as such, no relief can be granted to the applicants.

8. After having the rival contentions raised by learned counsel for parties as well as perusal of the records, the Court notes that Rule 17 of the Gangster Rules, 2021 provides that competent authorities, before forwarding the gang-chart must apply an independent mind to the information mentioned in the gang-chart as well as evidence annexed therewith. Rule 17(2) of the Gangster Rules, 2021 further provides that pre-printed rubber seal gang-chart should not be signed by the competent authorities because the same shall amount to not exercising independent mind. Rule 17 of the Gangster Rules, 2021 is being quoted as under:

"17. Use of independent mind.-(1) The competent authority shall be bound to exercise its own independent mind while forwarding the gang-chart.

(2) A pre-printed rubber seal gang-chart should not be signed by the competent authority; otherwise the same shall tantamount to the fact that the competent authority has not exercised its free mind."

9. The purpose of prohibiting the signing of pre-printed rubber seal under Rule 17(2) of the Gangster Rules, 2021 is to bind the competent authorities to apply independent mind by mentioning their satisfaction in clear words. Therefore, signing the pre-typed satisfaction will also be prohibited under Rule 17(2) of the Gangster Rules, 2021.

10. In the present case, all the competent authorities simply signed just below the printed proforma regarding their satisfaction, therefore, it clearly violates Rule 17 of the Gangster Rules, 2021.

11. From perusal of gang chart, it appears that the gang-chart was forwarded by Nodal Officer on 25.10.2023 and same was forwarded with recommendation for approval by Additional S.P. on 30.10.2023. It was further recommended for approval by S.P., Farrukhabad on

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03.11.2023 and on 06.11.2023, the District Magistrate/competent authority approved the gang chart against applicants and as such, different dates have been mentioned below the signature of the competent officers, which reveals that there was no deliberation among them while deciding and approving the gang chart, meaning thereby, no joint meeting with Superintendent of Police, Farrukhabad as required by Rule 5(3)(a) of the Gangster Rules, 2021 has been held, though the same is mandatory before approving the gang-chart, therefore, there is a clear violation of Rule 5(3) of the Gangster Rules, 2021.

12. Division Bench of this Court in the case of **Sanni Mishra (supra)** held as under:-

"22. In view of the above, this court lays down following directions for preparation of gang-chart before lodging FIR under the Gangster Act, 1986 :

(i) Date of filing of chargesheet under base case must be mentioned in Column-6 of the gang-chart except in cases under Rule 22(2) of the Gangster Rules, 2021.

(ii) While forwarding or approving the gang-chart, competent authorities must record their required satisfaction by writing in clear words, not by signing the printed/typed satisfaction.

(iii) There must be material available for the perusal of the court which shows that the District Magistrate before approving the gang-chart had conducted a joint meeting with the District Police Chief and held a due discussion for invocation of the Gangster Act, 1986."

13. On that ground alone that there is clear violation of Rule 5(3) of the Gangster Rules, 2021, both the applications are liable to allowed and as such, chargesheet dated 09.11.2024 as well as cognizance and summoning order dated 14.11.2024 along with supplementary gang-chart dated 06.11.2023 and entire further proceedings of Case No.4555 of 2024 (State of U.P. Vs. Vinay Dubey @ Sonu and others), arising out of Case Crime No.899 of 2021, under Section 3(1) of U.P.

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Gangster Act, Police Station Farrukhabad, District Farrukhabad, pending in the court of learned Special Judge (Gangster Act), Farrukhabad, are hereby set aside.

13. Accordingly, both the applications are **allowed**.

14. However, the above mentioned order will not preclude the concerned authorities for re-initiation of gangster proceedings against applicants herein, if required in future, in strict compliance of Rules and Act of Gangster.

Order Date :- 17.5.2025

Vivek Kr.

(Saurabh Srivastava, J.)