

Neutral Citation No. - 2025:AHC-LKO:36793-DB

Court No. - 2

Case :- CRIMINAL MISC. WRIT PETITION No. - 5658 of 2025

Petitioner :- Shabbir Husain And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko And 3 Others

Counsel for Petitioner :- Syed Raza Mehdi

Counsel for Respondent :- G.A.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Supplementary affidavit filed by learned counsel for the petitioners is taken on record.
2. Heard Sri Syed Raza Mehdi, learned counsel for the petitioner and learned AGA for the State.
3. Present petition has been filed for quashing the impugned First Information Report dated 28.04.2025 registered as Case Crime No.172 of 2025, under Sections 2(b)(i), 3 of U.P. Gangster Act & Anti Social Activities (Prevention) Act, 1986, Police Station- Bhira, District Kheri.
4. Contention of learned counsel for the applicants is that from perusal of the gang chart of the impugned FIR, it is explicit that the District Magistrate has not recorded the satisfaction while approving the gang chart as required by the U.P. Gangsters and Anti Social Activities (Prevention) Rules, 2021 as well as the judgement of co-ordinate Bench of this Court in **Sanni Mishra @ Sanjayan Kumar Mishra vs State of U.P. and others; 2023 SCC OnLine All 2975, Abdul Lateef @ Mustak Khan vs State of U.P. and other; 2024 SCC OnLine All 3900** and also the recent judgment of the Apex Court in **Vinod Bihari Lal vs State of U.P. and another; 2025 SCC OnLine SC 1216**.
5. Learned AGA for the State though opposed the prayer but could not dispute the aforesaid fact.
6. Considering the above submission, it is not in dispute that while registering the FIR, it is necessary that the gang chart should be

approved according to the Gangsters Act as well as Rules framed therein. This issue has already been dealt with by co-ordinate Bench of this Court in the case of **Sanni Mishra @ Sanjayan Kumar Mishra (supra)** as well as **Abdul Lateef @ Mustak Khan (supra)**, wherein it has been observed that if the gang chart is not approved by recording the required satisfaction as per Rule 16 of the Gangster Rules, gang chart would be illegal.

7. In the case of **Sanni Mishra @ Sanjayan Kumar Mishra (supra)**, the High Court has laid down the guidelines for preparation of gang chart including recording the satisfaction by the forwarding authority as well as approving authority. Apart from the laying down the guidelines, the High Court has also disapproved the manner in which the District Magistrates as well as Superintendent of Police have been recording their satisfaction at the time of preparation of the gang chart. Copy of this order was also sent to Chief Secretary, Govt. of U.P. with direction to issue necessary guidelines to the District Magistrates and District Police Chiefs regarding preparation of gang chart in the light of these judgements. Paragraphs 22, 25 and 26 of the **Sanni Mishra @ Sanjayan Kumar Mishra (supra)** is quoted hereinbelow;

"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.

25. At last, this court feels it appropriate to express its displeasure about the manner of preparing the gang-charts in Gangster Act, 1986. This court finds in number of cases that the police authorities as well as District Magistrate forwarded/approved the gang-chart without application of mind and contrary to Rules, 2021. This negligence on the part of police officials as well as of District Magistrate on the one hand fails to protect the innocent person and on the other hand, hardcore criminals and gangsters get benefit of such technical lacuna in Court.

26. Therefore, the Chief Secretary of U.P. is directed to issue necessary guidelines to all the District Magistrate/Commissioner of Police/SSP/SP/Additional SP regarding the preparation, forwarding and approval of the gang-chart in accordance with the Gangster Rules, 2021 in light of observations made above.

8. Thereafter, this Court again considered this issue in the case of **Abdul Lateef @ Mustak Khan (supra)** and on finding that despite specific directions in different judgements and guidelines issued by the State Government, District Magistrates as well as District Police

Chiefs are not applying their mind in recording their satisfactions at the time of preparation of gang chart. In the case of **Abdul Lateef @ Mustak Khan** (supra) the Court not only discussed the detailed guidelines issued in several judgements of the High Court Allahabad in preparation of gang chart but also directed to the State Government to conduct training programme of District Magistrates, District Police Chiefs and Nodal Officers who are competent authorities under the Gangsters Act to apprise them the proper procedure for preparation of gang chart and invocation of Gangster Act. Paragraphs Nos.27, 28 and 32 of the **Abdul Lateef @ Mustak Khan** (supra) is quoted as under:

"27. From a perusal of the above mentioned circulars of the Director General of Police, U.P. as well as Chief Secretary, Govt. of U.P., it is clear that there were specific directions to all the District Magistrates as well as District Police Chiefs to record their required satisfaction in the gang chart instead of signing a pre-typed satisfaction and it was also provided that there must be a joint meeting to conduct due discussion between the District Magistrate and the District Police Chief before approving the gang chart. It was also directed by those circulars that the competent authorities must peruse all the documents annexed with the gang chart before forwarding and approving the same.

*28. However, despite issuance of circulars by the Chief Secretary, Govt. of U.P. as well as the Director General of Police to all the District Magistrates as well as other police officers, this Court found that some of the officers were still not following the procedure while preparing the gang chart and defective gang charts were being prepared without application of mind on the part of the competent authorities. Therefore, the Division Bench of this Court in the case of **Rajeev Kumar @ Raju vs. State of U.P. and others**; Criminal Misc. Writ Petition No. 9428 of 2024, specifically directed the Principal Secretary (Home), Govt. of U.P. to issue appropriate direction to all the District Police Chiefs as well the District Magistrates to maintain a register for recording the minutes/resolutions of the joint meet held as per Rule 5(3)(a) of the Rules, 2021 and further direction was issued to all the District Police Chiefs, District Magistrates as well as Nodal Officers that while signing the gang chart they should mention the date just below their signatures. The judgement passed in **Rajeev Kumar @ Raju** (supra) is quoted as under:-*

"Heard learned Counsel for the petitioner and learned AGA on behalf of the State.

This Court by order dated 04.06.2024 directed the learned AGA to produce the register relating to joint meeting held in accordance with the U.P. Gangsters and Anti Social Activities (Prevention) Rules, 2021 (in short Gangster Rules, 2021) in original but today learned AGA has produced a copy of Resolution signed by the District Magistrate and S.P. concerned. It was also informed by the learned AGA that there is no provision for maintaining a register for the purpose of recording the Resolution of the joint meeting as required by Section 5 (3)(a) of the Gangster Rules, 2021.

Upon a perusal of the gang chart it appears that the District Magistrate, while approving the same, did not mention any date just below his signature and, therefore, this fact also causes doubt about the joint meeting. However, from a perusal of the entire gang chart, this Court is of the view that the required satisfaction was recorded by the Superintendent of Police as well as by the District Magistrate. Therefore, this Court does not find any illegality in the impugned FIR or the gang chart annexed."

*It would be appropriate to refer to our holding in **Sanni Mishra @ Sanjayan Kumar Mishra v. State Of U.P. and Other**: Neutral Citation No. - 2023:AHC:235826-DB, where this Court observed that the material must be produced before the Court regarding the joint meeting. However, in the present case only a Resolution signed by the*

Superintendent of Police and the District Magistrate was produced before the Court, which could be prepared even after approving the gang chart.

In this circumstances, this Court directs the Principal Secretary (Home), Government of U.P., Lucknow to issue an appropriate direction to all the SPs, SSPs, Commissioners of Police as well as District Magistrates that a register should be maintained for recording Resolutions of joint meetings held as per Rule 5 (3)(a) of the Gangsters Rules, 2021. It is further directed that all the SPs, SSPs, Commissioners of Police and also the District Magistrates as well as the Nodal Officers while signing a gang chart, shall mention the date below their signatures.

In this view of the matter, this petition fails and is dismissed.

Let this order be communicated to the Principal Secretary (Home), Government of U.P., Lucknow through the Chief Judicial Magistrate, Lucknow by the Registrar (Compliance) today. "

32. For ready reference, guidelines, issued by this Court in several judgements regarding preparation of gang chart as well as for invocation of Gangsters Act, are being summarised as under:-

"(i). While forwarding or approving the gang chart, the competent authorities must record their satisfaction as required by Rule 16 of the Rules, 2021 by writing in clear words and not by simply signing printed/pre-typed satisfaction.

(ii). Satisfaction of the competent authorities should reflect that they have applied their minds not only on the gang chart but also the documents/forms annexed with the gang chart.

(iii). Date of filing the charge sheet under the base case must be mentioned in Column-6 of the gang chart except in cases under Rule 22(ii) of the Rules, 2021 where Gangsters Act can be imposed during investigation.

(iv). Before approving the gang chart, the District Magistrate should conduct due discussion for invocation of the Gangsters Act in a joint meeting with the District Police Chief as per Rule 5(3)(a) of the Rules, 2021 and minutes/resolutions of the meeting must be recorded in a register maintained for that purpose. That register should be made available to the court for its perusal if it so requires.

(v). While signing their satisfaction competent authorities (District Police Chiefs, District Magistrates and Nodal Officers) should mention the date just below their signatures.

(vi). While approving the gang chart, the District Magistrate/Commissioner of Police should also verify whether the Nodal Officer and District Police Chief have properly recorded their satisfaction as per the Rules, 2021 as well as the guidelines issued by the State Government in pursuance of the directions issued in several judgements by the High Court.

(vii). Before invocation of the Gangsters Act, competent authorities should also record satisfaction that offence of base case/cases has/have been committed by a person who comes within the definition of "Gangster" as per Section 2(c) of the Gangsters Act and there must be material for such satisfaction. This satisfaction must be mentioned in the minutes of the joint meeting conducted as per Rule 5(3)(a) of the Rules, 2021."

9. The Apex Court in the case of Vinod Bihar Lal (supra) as well as Gorakh Nath Mishra vs State of U.P. in SLP (CrI) No. 7453 of 2025 again reiterated the proper procedure for invoking the Gangsters Act as well as preparation of gang chart on relying the judgements of the High Court Allahabad in the case of Sukarnpal vs State of U.P; 2024 SCC OnLine All 5848 as well as Sanni Mishra @ Sanjayan Kumar Mishra (supra) and observed that it is painful that the authorities entrusted with the solemn duty of

safeguarding the life and liberty of a person, treated it in a very casual manner. The paragraph nos. 56, 57 and 58 of **Vinod Bihari Lal (supra)** is quoted hereinbelow;

56. Upon perusal of the material on record, more particularly the gang-chart, it is abundantly clear that the said gang-chart was approved by the competent authority merely by affixing his signature on a pre-printed gang-chart, an act that reflects nothing short of a complete non-application of mind and constitutes a violation of Rules 16 and 17 of the Rules of 2021 respectively. At the cost of repetition, we would like to reiterate that the recommending, forwarding, and approving authority are not mere rubber-stamping entities.

57. The competent authority forwarded and approved the gang-chart without verifying whether it had been prepared in accordance with the Rules of 2021. Resultantly, the registration of the subject FIR is in complete violation of the procedural safeguards. We are at pains to observe that authorities, entrusted with the solemn duty of safeguarding life and liberty treat it with such casual indifference, truly a case of the fox guarding the henhouse.

58. The High Court of Allahabad in Sanni Mishra v. State of U.P., reported as 2023 SCC OnLine All 2975, came down heavily on the police authorities for the manner in which gang charts were being prepared, as well as the lack of application of mind by the District Magistrate in approving them. The Court laid down specific directions for the preparation of gang-charts prior to registration of an FIR under the Act of 1986. The relevant observations are reproduced hereinbelow:

"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." (Emphasis supplied).

10. The Apex court in the recent judgement of **Lal Mohammad and another vs State of U.P. and another in SLP (Crl) No. 6607 of 2023** dated 14.05.2025 again observed that constitutional guarantee of personal liberty acquires great significance when extraordinary legislation with stringent provision, such as U.P. Gangsters Act is invoked. The power conferred upon the State cannot be wielded as an instrument of harassment or intimidation. Therefore, while invoking the Gangsters Act, the procedural safeguard must be strictly followed. Paragraph no.23, 24 and 25 of the **Lal Mohammad (supra)** is quoted as under:

"23. It is trite law that any procedure prescribed by law must be fair, just, and reasonable, not arbitrary, presumption, or oppressive. This principle, firmly embedded in our constitutional jurisprudence, forms the cornerstone of Article 21 of the Constitution of India, which guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law.

24. The constitutional guarantee of personal liberty acquires even greater significance when extraordinary legislation with stringent provisions, such as the UP Gangsters Act,

is invoked. While the State has broad discretion in criminal prosecution, this discretion must be exercised judiciously, based on relevant considerations, and in conformity with the statutory purpose. The power conferred upon the State cannot be wielded as an instrument of harassment or intimidation, particularly where political motivations may be at play.

25. It is a cardinal principle of criminal jurisprudence that extraordinary penal provisions, particularly those that substantially abridge regular procedural safeguards, must be invoked based on evidence that meets a threshold of credibility and substantiality. The materials relied upon must establish a reasonable nexus between the accused and the alleged criminal activity, demonstrating actual probability of involvement rather than mere theoretical possibility. When a statute creates serious fetters on personal liberty, the evidentiary foundation for its invocation must be commensurately strong, supported by concrete, verifiable facts rather than vague assertions."

11. It is further relevant to consider that the State Government has also issued a comprehensive guidelines dated 02.12.2024 in compliance of the directions issued in the cases of **Gorakh Nath Mishra (supra)**, **Sanni Mishra @ Sanjayan Kumar Mishra (supra)** and **Abdul Lateef @ Mustak Khan (supra)** regarding invocation of Gangsters Act and procedure to be followed while preparing the gang chart. The guidelines dated 02.12.2024 of the Government of U.P. are is being quoted as under ;

"(1) Provisions of the Act be applied only when gangster commits the crime by violence, threat or show of violence or intimidation or coercion etc. alone or group with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person.

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(3) Attested copy of the Gang Register, maintained at Police Station, be also enclosed with gang-chart. Also the criminal details collected by DCRB and CCTNS/ICJS be enclosed.

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(8) On receiving the case file at the office of the Commissioner of Police/District Magistrate, again end to end perusal of all the facts be made and this be ensured according to rule 5(3)(a) of the Rules 2021 that only after being satisfied by holding a joint meeting with the Senior Superintendent of Police/Superintendent of Police, gang-chart be approved by the Police Commissioner/District Magistrate.

(9) After preparing the gang chart and getting the same approved and after thorough investigations, legal scrutiny and in addition to full compliance of the above-mentioned Government Orders regarding other relevant proceedings, as per Rule 5(3)(a) of the Rules 2011, it should also be ensured to maintain a register for entry of the resolutions of the Joint Meetings of the District Magistrate/the Police Commissioner/Senior Superintendent of Police/Superintendent of Police. In addition to the above, the Police Commissioner/Senior Superintendent of Police/Superintendent of Police and the District Magistrate and Nodal Officer, while appending their signatures on the gang-chart shall also ensure to mention the date below their signatures.

(10) It should be shown to the satisfaction of the competent authorities that they have applied their mind not only on the gang chart but also on the documents/papers attached with the gang-chart.

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(13) Rule 16(1) of the Rules, 2021 provides for the forwarding of gang charts by the Additional Superintendent of Police. Therefore, as per rules, under Rule 16(1) of the Rules, the Additional Superintendent of Police (Nodal Officer) should record his satisfaction in writing regarding the chart.

(14) As per Rule 16(2) of the Rules, 2021, the District Police Officer, Senior Superintendent of Police/Superintendent of Police, after studying the submission of the Additional Superintendent of Police under Rule 16(1) shall send the same to the District Magistrate or Commissioner of Police, regarding his satisfaction for approval of the gang chart.

(15) As per Rule 17(2) of the Rules, 2021, signatures on gang chart pre-printed on rubber stamp are prohibited. Accordingly, the approval shall be recorded on the gang chart by the competent authority only after proper use of independent mind and pre-printed rubber stamp shall not be used.

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(17) In case, the Prosecution Officer points out any illegality/irregularity in conducting investigations or with regard to the conclusion of the documents collected during investigation proceedings, after getting done disposal of the same, as the prosecution officer is satisfied that illegality/irregularity there is no remaining, only thereafter, the Additional Superintendent of Police shall forward the above-said records to the Senior Superintendent of Police or Superintendent of Police for approval under Rule 20(4) of the Rules, 2021.

(18) Under Rule 26 (1) of the Rules, 2021, as the case may be, whenever, the above-said Charge-sheet is sent before Commissioner/Senior the Police Superintendent of Police/Superintendent of Police, for granting the necessary approval under Rule 20, they, unavoidably, shall review the entire record.

(19) As per Rule 36 of the Rules, 2021, thorough investigations should be conducted regarding movable and immovable properties of the gang and the source of acquisition of the same. If evidence related to the possession over any land by the gang is required to be collected, the Investigating Officer may collect the evidence from the revenue records and the Revenue Officer.

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(26) District Police Incharge should carefully peruse all the facts and evidence collected during the investigation and only thereafter approval be given for filing of charge-sheet/final report in the concerned Court."

12. In the present case, from the perusal of the gang chart, it is clear that while approving the gang chart, the District Magistrate simply mentioned "discussed with Superintendent of Police and Committee and proposal approved". This is absolutely non-application of mind and also not in consonance with the U.P. Gangster Rules as well as clear violation of judgements of this Court in **Sunni Mishra @ Sanjayan Kumar Mishra (supra)** and **Abdul Lateef @ Mustak Khan (supra)** as well as the judgements of Supreme Court in the case of **Vinod Bihari Lal (supra)** and **Lal Mohammad (supra)**.

13. From the above analysis, it is clear that the gang chart of the impugned F.I.R. itself is prepared in violation to the Rules, 2021 as well as the direction issued by Co-ordinate Bench of this Court in **Sanni Mishra @ Sanjayan Kumar Mishra (supra)** and **Abdul**

Lateef @ Mustak Khan (supra) as well as the judgements of the Apex Court in the case of **Vinod Bihari Lal (supra)** and **Lal Mohammad (supra)** and also against the guidelines dated 02.12.2024 of Government of U.P.. Therefore, the gang chart as well as the impugned F.I.R. are liable to be quashed.

14. In view of above, the writ petition is **allowed**. The impugned FIR as well as gang chart is hereby quashed so far as petitioner is concerned.

15. A perusal of gang chart also shows that the District Magistrate, Lakhimpur Kheri has approved the gang chart on 21.03.2025. This fact shows that a training programme conducted by the State Government has no effect on the District Magistrate, Lakhimpur Kheri and even she ignored the guidelines of the State Government dated 02.12.2024 and approved the gang chart in utter violation of the direction issued by the High Court Allahabad as well as Supreme Court. Therefore, Chief Secretary, Govt. of U.P. is directed to look into this issue and shall apprise all the District Magistrates about the guidelines and directions issued by the High Court and Supreme Court regarding preparation of gang chart for invocation of Gangsters Act and if requires, a fresh training programme be initiated for the competent authorities under the Gangsters Act.

16. However, in the present case the authority concerned is at liberty to initiate fresh proceedings under The U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 after preparing the gang chart in accordance with the law as mentioned above.

17. Senior Registrar of this Court is directed to communicate this order to the Chief Secretary, Government of U.P. for its compliance.

Order Date :- 27.6.2025

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(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)