Vinod Bihari Lal vs The State Of Uttar Pradesh on 23 May, 2025

2025 INSC 767 REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS. 777-778 OF 2025
(Arising out of SLP (Crl.) Nos. 5376-5377 of 2023)

VINOD BIHARI LAL …APPELLANT

VERSUS

STATE OF UTTAR PRADESH & ANR. …RESPONDENTS

JUDGMENT

J.B. PARDIWALA, J.

For the convenience of exposition, this judgment is divided into the following parts:-

1. The Criminal Appeal No. 777 of 2025 arises out of the judgment (hereinafter referred to as “impugned judgment”), passed by the High Court of Judicature at Allahabad dated 19.04.2023 in Criminal Miscellaneous Application No. 36921 of 2019, whereby the High Court rejected the application filed by the appellant herein

under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the CrPC") for quashing of the proceedings of Special Sessions Trial No. 54 of 2019 (hereinafter referred to as "impugned proceedings"), arising out of FIR No. 850 of 2018 (hereinafter referred to as "subject FIR"), under Section(s) 2 and 3 respectively of the Uttar Pradesh Gangsters & Anti-Social Activities (Prevention) Act, 1986 (for short, "the Act of 1986") lodged at P.S. Naini, District Allahabad, Uttar Pradesh.

2. Whereas, the Criminal Appeal No. 778 of 2025 arises out of the order (hereinafter referred to as the "impugned order"), passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Application No. 10817 of 2023 dated 19.04.2023, whereby the High Court rejected the application filed by the appellant under Section 482 of the CrPC for quashing of non-bailable warrants issued against the appellant vide orders dated 28.02.2023 and 14.03.2023 respectively, passed by the Special Judge (Gangster Act), Allahabad in the impugned proceedings.

A. FACTUAL MATRIX

3. The impugned proceedings arise out of the subject FIR, which came to be registered against the appellant on 28.07.2018 at the instance of the Station House Officer (SHO), P.S. Naini. The FIR alleges that upon visits to certain areas, it was ascertained that the appellant, alongwith one David Dutta, constitute an organized gang in terms of Section 2(b) of the Act of 1986, with the appellant acting as its leader. It is further alleged that the gang is adept at committing economic offences involving fraud and cheating, being offences of the kind, described in Chapters XVI, XVII, and Crl. Appeal No. 777-778/2025 2 of 38 XXII of the IPC respectively for personal, material, and pecuniary gain for themselves by forging documents. On the basis of the following base FIRs, the subject FIR was registered:

Sr. No. Base FIRs Allegations qua the Status of appellant proceedings

1. FIR No. The appellant with other This Court 476/2017 accused persons forged quashed the FIR registered on forms and documents, vide order dated 09.08.2017 siphoned off approximately 24.01.2024 in u/Ss. 406, Rs. 13 crores which was the Crl. Appeal No. 419, 420, fee submitted by students. 385/2024.

	467, 471, 120B of the IPC	468,		
2.	FIR 170/2017	No. The accused persons are running Ewing Christian	The High Court stayed	the

registered on Public School without any further 21.08.2017 recognition; the building of proceedings vide u/Ss. 406, the said school is not in order dated 419, 420, accordance with building 04.10.2018 in 467, 468, norms and is being run Application u/S. 471, 120B of without permission from 482 No. the IPC the Allahabad

Development 34944/2018.

			Authority and the concerned Contracted Power Institutions. The accused persons have hatched a conspiracy and forged signatures on forms and documents. They have	

			misappropriated Rs. 6 crores out of the fee deposited by the students.	
			Date of Incident: Not mentioned.	
3.	FIR No. 726/2017	On 25.08.2017, appellant exhorted	the	The High Court ordered

registered on assailants to fire a gunshot coercive action to 25.08.2017 on the informant. be taken against u/Ss. 147, the appellant 148, 149, Date of Incident: vide order dated 323, 504, 25.08.2017 13.11.2018 in 506, 307 of Application u/S. the IPC 482 No. 40320/2018.

4. FIR No. The appellant in collusion The High Court 761/2017 with another accused stayed further registered on person appointed one proceedings vide 17.12.2017 Sumita Parmar as the order dated u/Ss. 419, Secretary of the Diocesan 07.12.2018 in 406, 420, Education Board. The Application u/S. 467, 468, accused persons have No. 44250/2018.

	471 IPC	of the forged	documents appoint the office bearers and signatories to the Board and embezzled crores of rupees from the Board.	to

			Date of Incident: 01.11.2017	
5.	FIR No. 244/2017 registered on 17.12.2017	The appellant is a member of organized gang forges documents with the intention of encroaching the	who did not stay the proceedings as	The High Court appellant

u/Ss. 419, 467, 471, 506 of IPC	417, 420, 468, 504,	upon vacant lands. The was on bail at the accused persons have relevant time. forged the order dated 10.04.1974 and 24.04.1974 in Suit No. 170/1974, and used fake seal of court.

Date of Incident: 20.08.2017

4. The gang-chart qua the appellant was purportedly approved by the District Magistrate, Allahabad on 28.07.2018. It also reflects the signatures of Senior Superintendent of Police, Allahabad dated 27.07.2018 alongwith the recommendation of the Superintendent of Police, Trans Yamuna and the Circle Officer, Karchhana.

5. By order dated 28.02.2023, the non-bailable warrants of arrest were issued against the appellant by the Special Judge (Gangster Act) in the impugned proceedings, and by order dated 14.03.2023, the application seeking recall of the said non-bailable warrants came to be rejected.

6. The appellant by way of Criminal Miscellaneous Application No. 36921 of 2019 assailed the impugned proceedings arising out of the subject FIR;

Crl. Appeal No. 777-778/2025 5 of 38 and by way of Criminal Miscellaneous Application No. 10817/2023 assailed the impugned orders and prayed for their quashing before the High Court under Section 482 of the CrPC.

B. IMPUGNED JUDGMENT

7. The High Court in Criminal Miscellaneous Application No. 36921/2019, rejected the application preferred by the application on following three grounds:

i. First, the High Court rejected the contention of the appellant that in order for a group of individuals to constitute a “gang”, ‘violence’ or ‘disturbance of public order’, whether acting singly or collectively for pecuniary gain, are the two essential ingredients for constituting a gang. The Court held that violence or disturbance of public order is not sine qua non for constituting a “gang” under Section 2(b) of the Act. According to the High Court, Section 2(b) contemplates a group of persons, acting either singly or collectively, who employ violence, or threat, or show of violence, or intimidation, or coercion, or engage in conduct falling within the expression “or otherwise” with the object of either (i) disturbing public order, or (ii)

obtaining any undue temporal, pecuniary, material, or other advantage for themselves or for others, and who indulge in anti-social activities as enumerated in clauses (i) to (xxii) of Section 2(b) of the Act of 1986. ii. As the natural corollary to the aforesaid, the twin objectives of disturbing public order or gaining undue advantage may be resorted to through any of the means enumerated in Section 2(b), or by any other way. The use of the term 'otherwise' indicates that the group may act in any manner to achieve these objectives, even in the absence of violence, coercion, or other overtly expressed means in the provision. Upon perusing the base FIRs, the High Court held that, in any event, the appellant could not have contended that there was no allegation of violence, or threat of violence against him.

iii. Secondly, the High Court rejected the submission of the appellant that owing to the interim orders passed by the High Court and this Court in the base FIRs, it could no longer be said the appellant was being prosecuted under the provisions of the Act of 1986. The Court held that an order staying the proceedings or restraining the police from taking any coercive steps neither extinguishes nor exonerates the alleged offence; it merely keeps the proceedings in abeyance. iv. Thirdly, on the submission advanced by the appellant that there was no compliance of mandatory provisions of Rules 5(2), 5(3), 16 and 17 respectively of the Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (for short, "the Rules of 2021"), the High Court held that the law does not mandate the use of any specific words to demonstrate independent application of mind by the recommending and approving authorities. It further maintained that the gang-chart reflected due and independent application of mind by all the authorities, and any inconsistency in the manner of approval of the gang-chart would be inconsequential once the case has progressed to the stage of trial.

8. The High Court, in Criminal Miscellaneous Application No. 10817/2023, rejected the application preferred by the appellant, holding that the challenge pertained to procedural steps in aid of the trial rather than to any substantive order, and that a mere challenge to procedure, without seeking any substantive relief, could not be entertained.

9. In the aforesaid circumstances, the appellant is before us with the present appeal.

C. SUBMISSIONS ON BEHALF OF THE APPELLANT

10. Mr. Siddhartha Dave, the learned Senior Counsel appearing for the appellant, submitted that the four base FIRs, namely FIR No. 170/2017, Crl. Appeal No. 777-778/2025 7 of 38 FIR No. 726/2017, FIR No. 761/2017 and FIR No. 244/2017 respectively, do not attribute any specific overt act to the appellant except for the omnibus allegation that he, in collusion with the other accused persons, forged documents for the purpose of grabbing land and embezzled money from the fees

deposited by the students. He further submitted that there is no allegation, even remotely, of the use of force and violence in the said FIRs. According to him, the allegations do not disclose that the primary objective behind the commission of the alleged offences was to disturb the public order.

11. Mr. Dave further submitted that a plain reading of Section 2(b) of the Act of 1986 reveals that a group of persons can be regarded a "gang" only if they engage in any anti-social activities through violence, or threat, or show of violence, or intimidation, or coercion with the object of disturbing public order and gaining any undue temporal, or pecuniary, material or other advantage for himself. He submitted that from the bare reading of Rule 3 of the Rules of 2021, it is clear that the ingredients of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage are necessary concomitants in the FIR under the Act of 1986. In the present case, the four base FIRs do not reveal any disturbance to public order or violence or threat.

12. He contended that the appellant is an accused in the abovementioned FIRs alongwith other accused persons. The appellant is alleged to be running a "gang" with one David Dutta, who is also named as an accused in the base FIR No. 170/2017. However, the other accused persons named in the remaining FIRs have not been arrayed as accused in the subject FIR, which has been registered under the Act of 1986. In other words, there is no plausible explanation as to why those other accused persons were not included in the subject FIR, if the same is based on the allegations contained in the base FIR.

13. Mr. Dave placed strong reliance on the decision of the High Court of Allahabad in Nafees & Anr. v. State of Uttar Pradesh, reported as 2011 SCC OnLine All 852, to contend that before the provisions the Act of 1986 are invoked, the authorities record satisfaction that there exists a reasonable and proximate connection between the alleged occurrence and the activity of the person sought to be apprehended. He submitted that such activities must be directed towards securing undue temporal, physical, economic or other advantages.

14. In the last, Mr. Dave questioned the conduct of the informant/complainant in the respective FIRs, as well as the veracity of the FIRs themselves, pointing out that base FIR No. 170/2017 does not mention the date of the alleged incident and that the delay in lodging all the base FIRs remain unexplained. He highlighted the mala fides on the part of the complainant in lodging FIR No. 170/2017 and FIR No. 761/2017 respectively. In support of this submission, he referred to the observations of this Court in Criminal Appeal No. 385 of 2024, wherein it was noted that the non-appearance of the complainant reflected a prejudicial attitude and an inability to substantiate the allegations made against the appellant.

D. SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. Ms. Garima Prashad, the learned Additional Advocate General appearing for the respondent-State, on the other hand, submitted that no error, not to speak of any error of law, could be said to have been committed by the High Court in passing the impugned judgment. She submitted that the subject FIR contains allegations that the appellant resorted to public threats and coercion, including physical violence, which Crl. Appeal No. 777-778/2025 9 of 38 squarely falls within the ambit of anti-social activities as defined Section 2(b) of the Act of 1986.

16. The learned A.A.G. further submitted that a bare perusal of the base FIRs reveal commission of cognizable offence by the appellant. In addition to these FIRs, she pointed out that there are thirty-two criminal cases pending against the appellant, in which chargesheets have been filed, disclosing serious allegations against him. In support of her submission, Ms. Prashad, referred to the statement of informants and witnesses in the subject FIR and the base FIRs. In the last, the A.A.G submitted that the impugned proceedings do not warrant quashing, as a prima facie case is made out against the appellant.

E. ANALYSIS

17. Before adverting to the rival submissions canvassed on either side, we must try to understand the basic principles governing quashing of complaints and criminal proceedings. This Court, in various judgments, more particularly in State of Haryana v. Bhajan Lal, reported as 1992 Supp (1) SCC 335, has laid down parameters for quashing of an FIR and the subsequent proceedings thereof. It is through the lens of these parameters that we shall examine whether the impugned proceedings warrant quashing, or whether the impugned judgment is correct in declining to do so. The parameters are:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

Crl. Appeal No. 777-778/2025 10 of 38 (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge." a. Testing the Impugned Proceedings on the anvil of Act of 1986 i. Definition of "gang" under the Act of 1986

18. At this stage, we shall refer to the definition of "gang" as set out in Section 2(b) of the Act of 1986. The definition reads thus:

"(b) "Gang" means a group of persons, who acting either singly or collectively, by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person, indulge in anti-social activities, namely—[...]"

19. Section 2(b) of the Act of 1986 should be read alongside Rule 3 of the Rules of 2021, which states as follows:

Crl. Appeal No. 777-778/2025 11 of 38 "3. Conditions of criminal liability.- (1) The offences mentioned in sub sections (i) to (xxv) of clause (b) of Section

2 of the Act shall be punishable under the Act only if they are:-

(a) committed for disturbing public order; or

(b) committed by causing violence or threat or display of violence, or by intimidation, or coercion or otherwise, either singly or collectively, for the purpose of obtaining any unfair worldly, economic, material, pecuniary or other advantage to himself or to any other person."

> 20. The definition of "gang" under Section 2(b) of the Act of 1986 comprises the following essentials;

i. A group of persons i.e., there can be no gang of one person; ii. The group of persons, acting either individually or collectively, indulges in anti-social activities as enumerated in clauses (i) to (xxv) of Section 2(b);

iii. Indulgence in such anti-social activities is by means of violence, or threat, or show of violence, or intimidation, or coercion, or otherwise;

iv. Use of such means is with the object of disturbing public order, or gaining any undue temporal, pecuniary, material or other advantage for himself or any other person.

21. It is apparent that the definition of the term "gang" is not attracted by mere association with a miscreant group. For such a group to metamorphize into a gang, it must engage in anti-social activities enumerated in clauses (i) to (xxv) of Section 2(b), and these must be committed for the object mentioned thereunder. In essence, a group of persons falls within the ambit of Section 2(b) only when the requirements set forth in Rule 3 are satisfied.

22. This Court in Shraddha Gupta v. State of Uttar Pradesh, reported as (2022) 19 SCC 57, held that an accused can be termed as "gangster" Crl. Appeal No. 777-778/2025 12 of 38 when he as a member of a gang, has indulged in any of the enumerated anti-social activities, whether by means expressly stated or otherwise, with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person. The relevant observations are reproduced hereinbelow:

> "25. A group of persons may act collectively or any one of the members of the group may also act singly, with the object of disturbing public order indulging in anti-social activities mentioned in Section 2(b) of the Gangsters Act, who can be termed as "gangster". A member of a "gang" acting either singly or collectively may be termed as a member of the "gang" and comes within the definition of "gang", provided he/she is found to have indulged in any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act.
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> xxx
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> 27. As per the settled position of law, the provisions of the statute are to be read and considered as it is. Therefore, considering the provisions under the Gangsters Act, 1986 as they are, even in case of a single offence/FIR/charge-

sheet, if it is found that the accused is a member of a "gang" and has indulged in any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act, such as, by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any

other person and he/she can be termed as “gangster” within the definition of Section 2(c) of the Act, he/she can be prosecuted for the offences under the Gangsters Act.” (Emphasis supplied)

23. A Full Bench of the High Court of Allahabad in Ashok Kumar Dixit v. State of U.P., reported as 1987 SCC OnLine All 203, while deciding on the constitutional validity of the Act of 1986 noted that the term “gang” means a group of persons who by violence, or threat, or show of violence, or intimidation, or coercion, or otherwise indulge in anti-social activities with the object of disturbing public order or gaining any undue temporal Crl. Appeal No. 777-778/2025 13 of 38 or pecuniary material or other advantage for himself. The relevant observations are reproduced hereinbelow:

> “12. Section 2(b) defines the term “Gang” to mean a group of persons who by violence, or threat, or show of violence or intimidation or coercion etc. indulge in anti-social activities with the object of disturbing public order of gaining any undue temporal or pecuniary material or other advantage for himself. S. 2(b) read as a whole necessarily brings in the concept of violence or intimidation or coercion etc. which is resorted to for gaining material advantage. Then we have cl. (c) of S. 2 which defines the word “Gangster”. It means a member or leader or organiser of a group which indulges in the kind of activities set out under the various sub-clauses of cl. (b) of S. 2, by use of violence or threat or show of violence or intimidation etc. S. 3(i) lays down the penalty for being the member or leader or organiser of a group which engages or indulges in the kind of unsocial activities enumerated under S. 2(b) by use of violence etc.” (Emphasis supplied)

24. A more lucid exposition of the essential requirements was provided in the recent decision of Sukarmpal v. State of U.P., reported in 2024 SCC OnLine All 5848. The relevant observations are reproduced hereinbelow:

> “11. From the definition of gang under Section 2(b) of the Gangster Act, it is clear that merely becoming a member of a gang will not be punishable unless the gang falls within the purview of Section 2(b) of Gangster Act and for the punishment of the member or organizer or leader of a gang under the Gangster Act, conditions mentioned in Rule 3 must be fulfilled, which prescribes that offence mentioned in Sub-section (i) to (xxv) of Section 2(b) of the Gangster Act must be committed for disturbing public order or committed by causing violence or threat or coercion or otherwise for the purpose of obtaining unfair trustworthy, pecuniary, economic, material or other advantage. Therefore, merely because a person has committed any offence mentioned in Sub-section (i) to (xxv) of sub-section (b) of Section 2 of the Gangster Act will not itself come within the purview of the Gangster Act unless he is member of a gang falling under Section 2(b) of Gangster Act.
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> 12. Even the Rule 4(2) of the Gangster Rules itself provides that, if a member of a gang has committed any offence which comes within the purview of the Act along

with any other members then he will be presumed to be a gang. Therefore, punishing a person under the Gangster Act basic condition to be a member of a gang under Section 2(b) of the Gangster Act must be satisfied.

13. Rule 6 of the Gangster Rules also provides that at the time of preparation of gang chart, it must be mentioned that act of gang falls within the purview of Section 2(b) of the Gangster Act. Therefore, it is clear that for bringing an offence within the purview of Gangster Act, it must be committed by a member of a gang for the object mentioned in Section 2(b) of the Gangster Act by doing the activities mentioned in Sub-Section (i) to (xxv) of Clause (b) of Section 2 of the Gangster Act. Therefore, if any offence is committed whether the same falls within the category of Sub-Section (i) to (xxv) of Section 2(b) of the Gangster Act or not, that will not come within the purview of the Gangster Act unless the same is done with the object mentioned in Section 2(b) of the Gangster Act." (Emphasis supplied)

25. From the above exposition of law, a group of persons may be said to constitute a gang only when they, either singly or collectively, indulge in any of the anti-social activity enumerated in clauses (i) to (xvv) of Section 2(b), by means specified therein, or otherwise, and most importantly, with the object of disturbing public order, or securing any undue temporal, pecuniary, material or other advantage for himself or any other person.

26. Although the present matter presently before us pertains solely to the subject FIR in question, yet it must be noted that an FIR registered under the Act of 1986 cannot be sustained in the absence of a base case/FIR. Accordingly, it becomes imperative to undertake a prima facie examination of the allegations underlying the registration of the subject FIR and the consequent preparation of gang-chart.

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27. We deem it necessary to reiterate that our observations concerning the base FIRs are confined exclusively to the purpose of assessing the subject FIR and the impugned proceedings before us. The trial arising from the base FIRs shall, in no manner whatsoever, be prejudiced or influenced by the present discussion.

28. In the subject FIR, it is alleged that upon visits to certain areas, it surfaced that the appellant, alongwith one David Dutta, constitute an organized gang, with the appellant acting as its leader. It is further alleged that the gang is adept at committing economic offences involving fraud and cheating, being offences of the kind, described in Chapters XVI, XVII, and XXII of the IPC for personal, material, and pecuniary gain for themselves by forging documents. The subject FIR reads thus:

"To, The Head Writer, P.S. Naini, District Allahabad. Today, on 28.07.2018, I (SHO) Pradeep Kumar Mishra along with accompanying Constable Narain Singh, Constable Ramsharan Verma and driver Mayapati Singh returned through government vehicle from visit area and investigation From visit area, it has ascertained that Vinod B. Lal

son of Mr. Bihari Lal resident of Agriculture Campus, Naini, Allahabad, (2) David Dutta son of Mr. A.B. Dutta resident of 86, Meurabad, P.S. Cantt., Allahabad are having an organized gang and its gang leader is Vinod B. Lal who is a habitual criminal of economic offences by committing fraud and cheating and commits offence mentioned in Chapter 16, 17 and 22 for personal, physical and financial benefits by forging documents to commit economic offence to get money. Due to their fear and terror, local people have no courage to get lodged complaint against them. On account of running Christian Public School at Katzoo Road, Shahganj by them without obtaining permission from Development Authority, Mr. Diwakar Nath Tripathi, Vide President, Bhartiya Janta Party, Allahabad (Kashi Region) had got registered Case Crime No.170/2017 under section 406/419/20/467/468/471120-B IPC P.S. Shahganj on 21.07.2017, investigation of which has conducted by SI Mohd. Zameer who after collecting the evidence has forwarded charge-sheet on 12.01.2018. On 09.08.2017, Crl. Appeal No. 777-778/2025 16 of 38 upon information of Mr. Diwakar Tripathi, Case Crime No.476/2017 under sections 406/419/420/467/468/471/120-B IPC has registered, which was investigated by Inspector Prakash Singh who in regard to evidence has forwarded Charge-Sheet No. 154 /2017 dated 04.10.2017. On 25.08.2017, on the information of Shaheem Siddiqui son of Late Mr. Nashimuddin Siddiqui resident of 7-D, Mahewa, Naini, in P.S. Naini Case Crime No.726/2017 under sections 147/148/323/504/506/307 IPC was registered against Ram Kishan etc., investigation of which was conducted by SI Mr. Santosh Kumar Singh who in regard to the evidence, forwarded Charge-Sheet bearing No.65/2018 dated 01.03.2018 against the above-named accused Vinod B. Lal before the Hon'ble Court. On 17.12.2017, on written complaint of Mr. Diwakar Nath Tripathi, in P.S. Civil Lines, Case Crime No.761/2017 under sections 419 /420/406/467/468/471/120-B against P.C. Singh and 7 others was registered and its investigation was conducted by SI Mr. Bhunesh Kumar Singh who in regard to the evidence has forwarded Charge-Sheet No.59/2018 dated 09.04.2018 against accused Vinod B. Lal and 6 others. On 17.12.2017, on the basis of written information of Mr. Rudra Narain Pathak son of Mr. Chandra Shekhar Pathak resident of Rampur, P.S. Rampur, District Varanasi, Case Crime No.244/2017 under sections 147/419/420/467/468/471/504/506 IPC was registered against Arun Pal and 11 others, investigation of which was conducted by Si B. Ramraj Singh who in sequence to the evidence has submitted Charge-Sheet No.63/2018 dated 01.04.2018 against the accused R.K. Gaban and Vinod B. Lal was submitted. Likewise, accused Vinod B. Lal and David Dutta have committed offence under sections 2/3 of Uttar Pradesh Gangster Act, 1986. Approval for gang chart of the aforesaid accused has obtained from District Magistrate, Allahabad. Send SR after registration of charge and informed higher officials through RT. Sd\- (illegible) English (Pradeep Kumar Mishra) Pradeep Kumar Mishra, In-Charge-cum-

Inspector, Naini Allahabad Sd Constable Narain Singh, Sd Constable Ram Sharan Verma. NOTE: I, HCP Ramdev Shukla certify that copy of complaint has got typed in computer verbatim." Crl. Appeal No. 777-778/2025 17 of 38

29. The chargesheet filed on completion of the investigation arrays only two accused, one of whom is the appellant, and states, in so many words, that based on the investigation conducted, reading of the statement of complainant and other witnesses, and the perusal of the gang-chart alongwith the FIRs mentioned therein, the offence under Section(s) 2 and 3 respectively of the Act of 1986 stands "proved" against the accused persons. The chargesheet is devoid of any annexures or enclosures that might substantiate the allegations or, at the very least, indicate that a genuine, impartial and transparent investigation was carried out. The statements attributed to the complainant and the witnesses are mere verbatim reproductions of the subject FIR and the base FIRs. The chargesheet states thus:

> "Sir, on the basis of written complaint of the Complainant Mr. Pradeep Kumar Mishra, In-Charge/Inspector, Naini and approved gang chart, charge has registered on 28.07.2018. In compliance of direction of Area Officer, investigation of the offence has commenced by SHO Mr. Onkar Shukla, P.S. Dhupur. After transfer of the case of the Complainant, on 17.11.2018, investigation has handed over to In-Charge/Inspector Mr. Pankaj Kumar Singh. Subsequent to arrival, after handing over the investigation to me, I (In-Charge/ Inspector) has conducted it. From the investigation till date, statement of the Complainant and witnesses, perusal of gang chart and FIRs mentioned in gang chart as well as charge-

sheet, through permission from Senior Superintendent of Police, Prayagraj, offence under sections 2/3 of Uttar Pradesh Gangster Act and Anti-Social Activities Act, 1986 are very well proved against the accused, i.e., (1) Vinod B. Lal son of Mr. Bihari Lal resident of Agriculture Campus, P.S. Naini, Prayagraj, (2) David Dutta son of Mr. A.B. Dutta resident of 86, Meurabad, P.S. Cantt., Prayagraj. Charge-Sheet bearing No.235/2019 dated 09.05.2019 against the accused persons is submitted before the Hon'ble Court. Investigation is concluded."

30. The contents of the chargesheet reflect a casual and cavalier attitude on the part of the investigating agency, as it discloses nothing beyond what Crl. Appeal No. 777-778/2025 18 of 38 was already stated in the subject FIR. Further, it remains obscure how the investigating authorities could assert that the offence under Section(s) 2 and 3 respectively stands "proved" against the appellant sans enclosing any documentary proved. We strongly disapprove of this practice and cast it into the cold storage wherein the investigating authority proclaims an offence to be "proved". We would like to remind that the role of investigating agencies is strictly circumscribed to conducting an impartial investigation into the alleged crime; the guilt or the innocence of the accused is for the trial court to determine.

31. It is noteworthy to mention that the subject FIR was registered after approximately a year from the date of the registration of the first base FIR. In the three base FIRs – FIR No. 726/2017, FIR No. 761/2017, and FIR No. 244/2017, respectively, the allegations against the appellant pertain to offences under Chapters 16, 17 and 22 of the IPC and thus, may fall within the scope of anti-social activities itemized under Section 2(b). Even assuming, for the sake of argument, that these acts were committed by any of the means specified therein, they do not, even in the remotest possibility, appear to us that they had been committed with the object of disturbing public order or to gain any

undue temporal, pecuniary, material or other advantage for himself or any other person.

32. It is also pertinent to note that in the impugned proceedings, the appellant and one David Dutta have been arraigned as gangsters, whereas in the above-mentioned three base FIRs, David Dutta does not figure at all as an accused. In such circumstances, the gang-chart could not have listed the said three FIRs, as the base FIRs, against the appellant and David Dutta together. If the investigating agency contemplated the existence of a gang comprising of both known and unknown persons, then it becomes incumbent upon the investigating agency to specify the same in both the gang-chart and the chargesheet.

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33. We find merit in the submission advanced by Mr. Dave that if the subject FIR and the gang-chart were indeed prepared on the strength of the base FIRs, there is no good or plausible explanation coming from the investigating agency as to why no investigation was initiated against other similarly placed accused persons named therein. This selective approach raises serious doubts about the bona fides of the investigating agency and integrity of the investigation undertaken under the Act of 1986.

34. Moreover, of the two remaining base FIRs – FIR No. 476/2017 and FIR No. 170/2017 respectively, one has already been quashed by this Court in Criminal Appeal No. 385/2024 vide order dated 24.01.2024. In the other FIR, i.e., FIR No. 170/2017, the date of the incident is conspicuously absent, though the FIR itself was registered on 21.08.2017. The allegations therein pertain to the administration of a school and cannot, by any stretch of imagination, be said to have been committed with the object of disturbing public order or of gaining any undue temporal, pecuniary, material, or other advantage for the appellant or any other person.

35. The allegations also fail to disclose whether any act of violence, threat, show of violence, intimidation, or coercion was resorted to for achieving the said object. Even the chargesheet filed pursuant to the investigation in the said base FIR, apart from mere reiteration of the contents of the FIR, makes only a vague reference to the signatures allegedly forged on certain forms and documents.

36. In the facts and circumstances of the case, more particularly, in view of the vague and general allegations levelled in the subject FIR, requiring the appellant to stand trial would amount to nothing but an abuse of the process of law. Non-interference in such a case would result in miscarriage of justice.

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37. This Court, in catena of decisions, has observed that it is not for the courts to embark upon an enquiry into the reliability or genuineness of the allegations made in the FIR at the stage of quashing of the proceedings. However, it is of paramount importance that the allegations made against the accused, if taken at face value, must disclose the commission of an offence, whether from the FIR, the chargesheet, or other relevant materials. It is incumbent upon the courts to exercise their

discretionary powers where the materials on record indicate that the criminal proceeding are being misused as instruments of oppression or harassment.

38. In R.P. Kapur v. State of Punjab, reported as 1960 SCC OnLine SC 21, this Court held that where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge, the High Court can and should quash the proceedings. The relevant observations are reproduced hereinbelow:

> "6.[...]It is well-established that the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the Crl. Appeal No. 777-778/2025 21 of 38 said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question[...]" (Emphasis supplied)

39. In our opinion, the present case falls within the parameter nos. 1 and 7 respectively of Bhajan Lal (supra) referred to above. The duty of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance was delineated by this Court in Mohammad Wajid v. State of U.P., reported as 2023 SCC OnLine SC 951, wherein one of us, J.B. Pardiwala, J., was part of the Bench. We may refer to the following observations with profit:

> "34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the Crl. Appeal No. 777-778/2025 22 of 38 FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged." (Emphasis supplied)
>
> 40. The learned A.A.G submitted that considering the criminal antecedents of the appellant, the impugned proceedings may not be quashed. In this regard, details have been furnished qua the antecedents of the appellant. Although, a perusal of the same may give an impression that the appellant is a history sheeter and hardened criminal yet as held in Mohammad Wajid (supra), the criminal antecedents of an accused Crl. Appeal No. 777-778/2025 23 of 38 cannot be the sole consideration to decline to quash the proceedings if otherwise no offence is disclosed. It would be apposite to revisit the relevant observations, which read as follows:

> "38.[...] However, when it comes to quashing of the FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings. An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence or his case falls within one of the parameters as laid down by this Court in the case of Bhajan Lal (supra), then the Court should not decline to quash the criminal case only on the ground that the accused is a history sheeter. Initiation of prosecution has adverse and harsh consequences for the persons named as accused. In Directorate of Revenue v. Mohammed Nisar Holia, (2008) 2 SCC 370, this Court explicitly recognises the right to not to be disturbed without sufficient grounds as one of the underlying mandates of Article 21 of the Constitution. Thus, the requirement and need to balance the law enforcement power and protection of citizens from injustice and harassment must be maintained. It goes without saying that the State owes a duty to ensure that no crime goes unpunished but at the same time it also owes a duty to ensure that none of its subjects are unnecessarily harassed." (Emphasis supplied)
>
> 41. Upon evaluating the present case in the context of the allegations made and in light of the decisions referred, we have no hesitation in saying that the High Court committed an egregious error in declining to exercise its jurisdiction under Section 482 of the CrPC to quash the subject FIR No. 850/2018 and all further proceedings in pursuance thereof qua the appellant.

b. Testing the Impugned Proceedings on the anvil of Rules of 2021

42. At this stage, it is important to ascertain whether the gang-chart was approved in conformity with the Rules of 2021. The general rules to be Crl. Appeal No. 777-778/2025 24 of 38 followed qua approval of gang-chart have been stipulated in Rule 5 of the Rules of 2021. It reads thus:

> "5. General Rules.—(1) To initiate proceedings under this Act, the concerned Incharge of Police Station/Station House Officer/Inspector shall prepare a gang-chart mentioning the details of criminal activities of the gang. (2) The gang-chart will be presented to the district head of police after clear recommendation of the Additional Superintendent of Police mentioning the detailed activities in relation to all the persons of the said gang. (3) The following provisions shall be complied with in respect of gang-charts:— a. The gang-chart will not be approved summarily but after due discussion in a joint meeting of the Commissioner of Police/District Magistrate/Senior Superintendent of Police/Superintendent of Police.

b. There may be no gang of one person but there may be a gang of known and other unknown persons and in that form the gang-chart may be approved as per these rules. c. The gang-chart shall not mention those cases in which acquittal has been granted by the Special Court or in which the final report has been filed after the investigation. However, the gang-chart shall not be approved without the completion of investigation of the base case.

d. Those cases shall not be mentioned in the gang-chart, on the basis of which action has already been taken once under this Act.

e. A separate list of criminal history, as given in Form No.—4, shall be attached with the gang-chart detailing all the criminal activities of that gang and mentioning all the criminal cases, even if acquittal has been granted in those cases or even where final report has been submitted in the absence of evidence.

Along with the above, a certified copy of the gang register kept at the police station shall also be attached with the gang-chart. In addition to the above, the information of crime and gang members mentioned in the gang-chart will also be updated on Interoperable Criminal Justice System (ICJS) portal and Crime and Criminal Tracking Network System (CCTNS).” Crl. Appeal No. 777-778/2025 25 of 38

43. Likewise, Rules 16 and 17 respectively stipulate the manner for approval of gang-chart and the application of independent mind by the competent authorities. The same are quoted below:

> “16. Forwarding of Gang-Chart.-The following manner shall be followed in the forwarding of Gang-Chart:
>
> (1) Forwarding of the gang-chart by the Additional Superintendent of Police.- The Additional Superintendent of Police will not only take a quick forwarding action in the case but he will duly peruse the gang-chart and all the attached forms; and when it is satisfied that there is a just and satisfactory basis to pursue the case, only then will he forward the letter along with the recommendation given below on the gang-chart to the Superintendent of Police/Senior Superintendent of Police.

“Thoroughly studied the gang-chart and attached evidence. The basis of action under the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 exists. Accordingly, forwarded with recommendation.” (2) Forwarding of the gang-chart by the district police in- charge.- When the gang-chart along with all the Forms is received by the Senior Superintendent of Police/Superintendent of Police with the clear recommendation of the Additional Superintendent of Police, he will also thoroughly analyze all the facts and when it is confirmed that all the formalities of the Act, have been fulfilled and there is a legal basis for taking action in the case, then he should forward the gang-chart to the Commissioner of Police/District Magistrate stating that:

> “I have duly perused the gang-chart and attached forms and I am fully satisfied that all the particulars mentioned in the case are correct and there is a satisfactory basis for taking action under the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986. Accordingly, approved.” (3) Resolution of the Commissioner of Police/District Magistrate.- When the gang-chart is sent to the Commissioner of Police/District Magistrate along with all the Forms, all the facts will also be thoroughly perused by the Commissioner of Police/District Magistrate and when he is satisfied that the basis of action exists in the case, then he will approve the gang

-chart stating therein that:

> Crl. Appeal No. 777-778/2025 26 of 38 "I duly perused the gang-chart and attached Forms in the light of the evidence attached with the gang-chart, satisfactory grounds exist for taking action under the Uttar Pradesh Gangsters and Anti-social Activities (Prevention) Act, 1986. The gang-chart is approved accordingly." It is noteworthy that the words written above are only illustrative. There is no compulsion to write the same verbatim but it is necessary that the meaning of approval should be the same as the recommendations written above and it should also be clear from the note of approval marked.

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."

44. Rule 5(3)(a) stipulates that a gang chart shall be approved only after due discussion in a joint meeting comprising the District Magistrate, Commissioner of Police, Senior Superintendent of Police, Superintendent of Police, and not through a summary process.

45. In the present case, there is nothing on record, even upon a microscopic examination, to indicate that a joint meeting was held prior to approval of the gang-chart. It is apparent that the gang-chart was approved summarily, without any discussion. It was forwarded and approved swiftly, without regard for compliance with the relevant rules. The compliance with Rule 5(3)(a) ought to be evident through the record of minutes of the joint meeting maintained in a register by the District Magistrate.

46. Further, Rule 16 mandates that the Additional Superintendent of Police shall forward the letter, alongwith a recommendation on the gang- chart, to the Superintendent of Police/Senior Superintendent of Police only Crl. Appeal No. 777-778/2025 27 of 38 upon being satisfied that there exists a just and satisfactory grounds to pursue the case. The Additional Superintendent of Police is required to record his recommendation in clear words. It is further incumbent upon the Superintendent of Police/Senior Superintendent of Police to thoroughly analyze all the facts, and only upon being satisfied that all the requirements under the Act are fulfilled and that grounds for taking action exists, he should forward the gang-chart to the Commissioner of Police/District Magistrate. The Superintendent of Police/Senior Superintendent of Police must also record his satisfaction not only qua the particulars of the case but also the grounds to proceed under the Act of 1986.

47. Furthermore, upon receipt of the gang chart along with all the requisite forms, the Commissioner of Police/District Magistrate is required to thoroughly examine all the facts afresh and, only upon being satisfied that sufficient grounds exist to proceed, may approve the gang chart.

The recorded satisfaction must clearly reflect that the Commissioner of Police/District Magistrate has scrutinized the gang-chart and the accompanying forms in light of the evidence annexed thereto.

48. Once again we are anguished that not only there is no material on record to indicate communication of the satisfaction of the Additional Superintendent of Police, Senior Superintendent of Police and the District Magistrate, but also there is no mention as to on which particular date the gang-chart was forwarded by the Additional Superintendent of Police to the Senior Superintendent of Police, and thereafter, to the District Magistrate for approval.

49. Rule 17 mandates that the competent authority must exercise its independent mind while forwarding the gang-chart. It unequivocally prohibits the use of pre-printed gang-charts, thereby making it Crl. Appeal No. 777-778/2025 28 of 38 impermissible for the authority to mechanically affix its signature. The underlying objective of this prohibition is to ensure that the competent authority undertakes a conscious and reasoned application of mind, rather than merely endorsing a pre-prepared document. Such a safeguard is integral to preserving the procedural sanctity of the law and preventing arbitrary or perfunctory approvals that may adversely affect the rights and liberties of individuals.

i. Application of mind and satisfaction of competent authorities

50. We would like to begin with observations of Lord Halsbury in Sharp v. Wakefield, 1891 A.C. 173 at page 179;

“An extensive power is confided to the justices in their capacity as justices to be exercised judicially; and “discretion” means when it is said that something is to be done within the discretion of the authorities that that something is to be done according to the rules of reason and justice, not according to private opinion…; according to law, and not humour. It is to be, not arbitrary, vague, and fanciful, but legal and regular[…]” (Emphasis is ours)

51. The satisfaction of the approving authority is sine qua non for taking action under the Act of 1986. It is indispensable for the approving authority to record his satisfaction in his own words, to indicate application of mind before approving the gang-chart. The recording of satisfaction need not be exhaustive, because at the stage of approval the investigation under the Act of 1986 is yet to be conducted, but it must be independent, indicating the reasons justifying the exercise of jurisdiction under the Act of 1986.

52. It is equally apposite to mention that the satisfaction must not be a cyclostyle reproduction of the application of mind communicated by the recommending authority. This is only possible when the approving authority meticulously refers to the materials on record on the basis of Crl. Appeal No. 777-778/2025 29 of 38 which he will come to the conclusion about existence of grounds justifying registration of an FIR under the Act of 1986. Needless to say, reiteration of the contents of the FIR or chargesheet does not constitute application of mind.

53. Such satisfaction must stand on certain grounds; it cannot arise in absence of any basis, leaving the liberty of the accused in a precarious position. The basis of satisfaction must bear a reasonable nexus with the facts present before the concerned authority. Thus, the decision of the recommending, forwarding, and approving authorities respectively must be at the behest of the application of mind to the relevant and material facts available on record.

54. An independent application of mind cannot be presumed unless it is demonstrable from the record that the approving authority has, in letter and spirit, independently considered all the materials that culminated in the preparation and placement of the gang chart before him. While the correctness of such application of mind may lie beyond the scope of judicial scrutiny, the absence thereof certainly does not. A mechanical or routine exercise of power by the recommending, forwarding, and approving authorities respectively is impermissible, as it directly impinges upon the liberty of citizens.

55. This Court in Nenavath Bujji v. State of Telangana & Ors., reported as 2024 SCC OnLine SC 367, wherein one of us, J. B. Pardiwala J., writing for the Bench, while examining the attributes of satisfaction of the detaining authority under the relevant enactment, held that application of mind is implicit in subjective satisfaction of an authority. It was expressly held that proper satisfaction of the authority should be reflected clearly and in categorical terms. We shall reproduce the observations which apply Crl. Appeal No. 777-778/2025 30 of 38 mutatis mutandis to the satisfaction of the approving authority. It reads thus:

> "43. We summarize our conclusions as under:—
>
> (i) The Detaining Authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction,
>
> (ii) It is an unwritten law, constitutional and administrative, that wherever a decision-making function is entrusted to the subjective satisfaction of the statutory functionary, there is an implicit duty to apply his mind to the pertinent and proximate matters and eschew those which are irrelevant & remote,
>
> (iii) There can be no dispute about the settled proposition that the detention order requires subjective satisfaction of the detaining authority which, ordinarily, cannot be questioned by the court for insufficiency of material.

Nonetheless, if the detaining authority does not consider relevant circumstances or considers wholly unnecessary, immaterial and irrelevant circumstances, then such subjective satisfaction would be vitiated,

(iv) In quashing the order of detention, the Court does not sit in judgment over the correctness of the subjective satisfaction. The anxiety of the Court should be to ascertain as to whether the decision-making process for reaching the subjective satisfaction is based on objective facts or influenced by any caprice, malice or irrelevant considerations or non-application of mind,

(v) While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention,

(vi) The satisfaction cannot be inferred by mere statement in the order that "it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order". Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction,

(vii) Inability on the part of the state's police machinery to tackle the law and order situation should not be an excuse to invoke the jurisdiction of preventive detention,

(viii) Justification for such an order should exist in the ground(s) furnished to the detenu to reinforce the order of detention. It cannot be explained by reason(s)/grounds(s) not furnished to the detenu. The decision of the authority Crl. Appeal No. 777-778/2025 31 of 38 must be the natural culmination of the application of mind to the relevant and material facts available on the record, and,

(ix) To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention. For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority." (Emphasis supplied)

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.

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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)

59. We also deem it necessary to make certain observations regarding the investigation conducted pursuant to the approval of the gang-chart and the registration of the subject FIR under the Act of 1986 respectively. Rule 20 mandates that, during the course of investigation, evidence pertaining to the elements of economic, material, and worldly benefits must be specifically collected. Upon being satisfied that credible, substantial, and logically coherent evidence has been compiled in accordance with the requirements of the Act, the Additional Superintendent of Police shall forward the report to the Senior Superintendent of Police/Superintendent of Police for sanction.

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60. In the present case, the sanction order merely states that, based on the examination of the evidence collected, the accused were found to be involved in the commission of offences under the IPC by forming a gang with the objective of deriving economic and monetary benefits, and that a prima facie case exists for filing a chargesheet under Section(s) 2 and 3 of the Act of 1986.

61. The materials gathered during the investigation are reflected in the chargesheet, reproduced hereinabove, and comprise the statements of six witnesses – namely, the Inspector-in-Charge, P.S. Naini, two constables posted at the same station, and the complainants in base FIRs No. 726/2017 and 244/2017. The statement of the above-mentioned witnesses does not add to what has already been stated in the base FIRs. It cannot be gainsaid that the materials garnered during the investigation only ignite conjectures and surmises, and do not make out a prima facie case to be proceeded against the appellant under the Act of 1986. At the stage of forwarding and approving the gang-chart, the competent authorities are under the obligation to record their satisfaction that a

case for action under the Act of 1986 is made out, and the gang-chart and other records should reflect such satisfaction.

62. The impugned judgment and consequently, the impugned order clearly bring about a situation which is an abuse of the process of the court which makes the interference of this Court necessary. We are of a firm view that continuation of criminal proceedings against the appellant herein would result in undue harassment when there is no material against him and will result in the abuse of process of law.

63. A Coordinate Bench of this Court in Gorakh Nath Mishra v. State of Uttar Pradesh, Crl. Appeal No. 2589/2025, vide order dated 19.04.2024 directed the respondent-State to postulate necessary Crl. Appeal No. 777-778/2025 34 of 38 parameters/guidelines for the purpose of invoking provisions of the Act of 1986. In compliance of the same, the Government of Uttar Pradesh vide Office Memorandum/Circular No. 4619/Chha-Pu-9-2024-1867437 dated 02.12.2024 identified certain shortcomings of the existing paraphernalia and introduced certain directions to correct the same alongwith a 29- points Checklist.

64. In light of the foregoing, we direct the concerned authorities to adhere to the aforementioned guidelines and comply to the Checklist, in both letter and spirit. In view of the facts of the present case at hand, we would like to inject thrust into the Guidelines dated 02.12.024, and also subsume the following portions of the Guidelines as a part of this judgment. They read as follows:

> "(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.
>
> xxx (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.
>
> xxx (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 Crl. Appeal No. 777-778/2025 35 of 38 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.

xxx (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.

xxx (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 Crl. Appeal No. 777-778/2025 36 of 38 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.

xxx (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." F. CONCLUSION

65. We are convinced that the continuation of Special Sessions Trial No. 54 of 2019 arising out of FIR No. 850 of 2018 registered at P.S. Naini, District Allahabad, Uttar Pradesh will be nothing but abuse of the process of the law.

66. In the result, these appeals succeed and are hereby allowed. The impugned judgment and order dated 19.04.2023 whereby the High Court of Judicature at Allahabad rejected the application under Section 482 of the CrPC, preferred by the appellant for quashing of the impugned proceedings; and rejection of the application preferred by the appellant for quashing of non-bailable warrants vide order dated 28.02.2023 and 14.03.2023 respectively are hereby set aside. Resultantly, the criminal proceedings arising from FIR No. 850/2018 dated 28.07.2018 registered at P.S. Naini, District Allahabad, Uttar Pradesh are hereby quashed.

67. It is needless to clarify that the observations made in this judgment are relevant only for the purpose of the subject FIR in question and the consequential criminal proceedings. None of the observations shall have Crl. Appeal No. 777-778/2025 37 of 38 any bearing on any of the pending criminal prosecutions or any other proceedings.

68. Pending application(s), if any, shall also stand disposed of.

.....J. (J.B. PARDIWALA) .....J. (MANOJ MISRA) New Delhi;

23rd May, 2025.