

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 12210 of 2024

Petitioner :- Asif

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Vishal Kumar Sonkar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Vishal Kumar Sonkar, learned counsel for the petitioner and learned AGA for the State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned first information report dated 04.04.2024 registered as Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha, and for a direction to the respondents not to arrest the petitioner in pursuance of the impugned first information report.

3. Contention of learned counsel for the petitioner is that while preparing and approving the gang-chart of the impugned FIR, no require satisfaction was recorded by the Superintendent of Police, Amroha and the District Magistrate, Amroha which is contrary to Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (hereinafter referred to as the 'Rules, 2021') as well as guidelines issued by this Court in **Sanni Mishra @ Sanjayan Kumar Mishra vs State of U.P. and others reported in 2024(1) ADJ 231 (DB)** and other cases.

4. Though learned AGA has opposed the prayer but could not dispute the aforesaid facts which is apparent on record.

5. After hearing the submissions of learned counsel for the parties and perusal of gang-chart, this Court finds that while forwarding the gang-chart, the Superintendent of Police, Amroha did not record satisfaction as required by Rules 16(2) of the Rules, 2021 and it is very surprising that the District Magistrate, Amroha did not record any kind of satisfaction before approving the same. On the one hand, the District Magistrate, Amroha approved the gang-chart without recording any satisfaction as required by Rule 16(3) of the Rules, 2021, on the other hand, he did not look into the

satisfaction recorded by Superintendent of Police. This is sheer negligence on the part of the District Magistrate, Amroha.

6. This Court in the case of **Sanni Mishra (supra)** issued detailed guidelines regarding recording of satisfaction by the competent authority at the time of forwarding and approving the gang-chart which is basis for invocation of U.P. Gangster Act upon any person. Though guidelines issued in **Sanni Mishra (supra)** was already intimated to the District Police Chief by circular dated 19.01.2024 by the Director General of Police and thereafter, the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 to all the District Magistrates for compliance of the guidelines issued in **Sanni Mishra (supra)** case at the time of approving the gang-chart but despite the aforesaid intimation on the part of the Director General of Police and the State Government, the Superintendent of Police, Amroha and the District Magistrate, Amroha failed to comply the above directions while preparing the gang-chart and invoked the U.P. Gangster Act, 1986 against the petitioner. It is responsibility of the District Magistrate to look into the recommendation of Nodal Officer and Superintendent of Police and also conduct joint meeting before approving the gang-chart. Sole responsibility is upon the District Magistrate for preparation of proper gang-chart.

7. Rule 64 of the Rules, 2021 provides three tier committees to supervise and review the proceeding under Gangster Act. As per Rule 64(1) of the Rules, 2021, the District Level Supervision Committee is constituted under the Chairmanship of **District Magistrate/Commissioner of Police** which is required to be convened after every quarter to compulsorily review the invocation of Gangster Act upon a person. Therefore, if any mistake is committed in preparing the gang-chart for the invocation of Gangster Act, it is the duty of District Level Supervisory Committee to review the same and take appropriate decision and further Rules 64 (2) of the Rules, 2021 provides Divisional Level Supervision Committee under the Chairmanship of **Divisional Commissioner**, which shall also quarterly review the report of District Level Supervision Committee. Thereafter, there is provision of State Level Supervision Committee by Rules 64 (3) having responsibility to supervise the Divisional Level Supervision Committee and District Level Supervision Committee on half yearly basis.

8. This Court is of the view that if the District Level Supervisory Committee and State Level Supervisory Committee properly perform its duty of supervision of proceeding under the Gangster

Act then the mistake committed by competent authorities could be rectified and there is no need to interfere by the High Court in the proceeding of Gangster Act.

9. This Court came across number of cases from district Amroha where the District Magistrate, Amroha and Superintendent of Police Amroha have not properly prepared the gang-chart in accordance with Rules, 2021 and invoked the Gangster Act without looking into the Gangster Act as well as Rules framed therein, leaving the lacuna in preparation of gang-chart which ultimately helped the criminals to get the proceeding under Gangster Act quashed. This is very sorry state of affairs.

10. In such view of the matter, this Court directs the **District Magistrate, Amroha** to file his personal affidavit to bring on record following information.

i. Whether the joint meeting as required by Rule 5(3)(a) of the Rules, 2021 has been conducted in the present case and minutes thereof has been recorded in the register maintained for that purpose.

ii. Despite the intimation given by the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 about guidelines issued by this Court in Sanni Mishra (supra) case as well as other cases, why he has not followed those guidelines and approved the gang-chart contrary to the Rules, 2021 as well as guidelines of this Court.

iii. Whether any quarterly meeting was conducted by the District Level Supervisory Committee and present matter was considered in that meeting. What are minutes of that meeting.

11. The **Divisional Commissioner, Moradabad** is also directed to file his personal affidavit to bring on record whether as per Rule 64(2) of the Rules, 2021, the Divisional Level Supervisory Committee has been constituted. If yes, whether the review report of District Level Supervision Committee, Amroha for the cases including the present one registered under Gangster Act during last six months was considered and also place on record the minutes of that meeting.

12. Learned AGA will also seek instructions from the Additional Chief Secretary (Home), Uttar Pradesh whether the State Level Supervisory Committee as required by Rule 64(3) of the Rules, 2021 has been constituted.

13. Put up this case on 22.08.2024 as fresh.

14. As gangster chart of the impugned FIR has serious irregularities and present petition *prima facie* deserves to be allowed, therefore, further investigation in Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha shall remain stayed so far as petitioner is concerned.

15. Registrar (Compliance) is directed to intimate this order to the Divisional Commissioner, Moradabad, the District Magistrate, Amroha and Superintendent of Police, Amroha for necessary compliance forthwith.

16. It is made clear that if the affidavit is not filed by the District Magistrate, Amroha and the Divisional Commissioner, Moradabad by next date fixed, the Court may consider to summon them personally.

Order Date :- 6.8.2024

A.Kr.

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 12210 of 2024

Petitioner :- Asif

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Vishal Kumar Sonkar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Put up this case on 29.08.2024 as fresh to enable the learned AGA to file better affidavit of the District Magistrate, Amroha as well as Divisional Commissioner, Moradabad specially mentioning the facts whether the Circular dated 21.01.2024 was within their knowledge. He will also file an affidavit of Additional Chief Secretary (Home), Uttar Pradesh about constitution of State Level Supervisory Committee.

2. Interim order, granted earlier, is extended till next date of listing.

Order Date :- 22.8.2024

A.Kr.

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 12210 of 2024

Petitioner :- Asif

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Vishal Kumar Sonkar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Pawan Kumar, learned counsel holding brief of Sri Vishal Kumar Sonkar, learned counsel for the petitioner and Sri A.K. Sand, learned Government Advocate along with Sri Pankaj Saxena, learned AGA for the State.

2. This matter was heard on 06.08.2024 and following order was passed:

"1. Heard Sri Vishal Kumar Sonkar, learned counsel for the petitioner and learned AGA for the State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned first information report dated 04.04.2024 registered as Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha, and for a direction to the respondents not to arrest the petitioner in pursuance of the impugned first information report.

3. Contention of learned counsel for the petitioner is that while preparing and approving the gang-chart of the impugned FIR, no require satisfaction was recorded by the Superintendent of Police, Amroha and the District Magistrate, Amroha which is contrary to Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (hereinafter referred to as the 'Rules, 2021') as well as guidelines issued by this Court in Sanni Mishra @ Sanjayan Kumar Mishra vs State of U.P. and others reported in 2024(1) ADJ 231 (DB) and other cases.

4. Though learned AGA has opposed the prayer but could not dispute the aforesaid facts which is apparent on record.

5. After hearing the submissions of learned counsel for the parties and perusal of gang-chart, this Court finds that while forwarding the gang-chart, the Superintendent of Police, Amroha did not record satisfaction as required by Rules 16(2)

of the Rules, 2021 and it is very surprising that the District Magistrate, Amroha did not record any kind of satisfaction before approving the same. On the one hand, the District Magistrate, Amroha approved the gang-chart without recording any satisfaction as required by Rule 16(3) of the Rules, 2021, on the other hand, he did not look into the satisfaction recorded by Superintendent of Police. This is sheer negligence on the part of the District Magistrate, Amroha.

6. This Court in the case of Sanni Mishra (supra) issued detailed guidelines regarding recording of satisfaction by the competent authority at the time of forwarding and approving the gang-chart which is basis for invocation of U.P. Gangster Act upon any person. Though guidelines issued in Sanni Mishra (supra) was already intimated to the District Police Chief by circular dated 19.01.2024 by the Director General of Police and thereafter, the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 to all the District Magistrates for compliance of the guidelines issued in Sanni Mishra (supra) case at the time of approving the gang-chart but despite the aforesaid intimation on the part of the Director General of Police and the State Government, the Superintendent of Police, Amroha and the District Magistrate, Amroha failed to comply the above directions while preparing the gang-chart and invoked the U.P. Gangster Act, 1986 against the petitioner. It is responsibility of the District Magistrate to look into the recommendation of Nodal Officer and Superintendent of Police and also conduct joint meeting before approving the gang-chart. Sole responsibility is upon the District Magistrate for preparation of proper gang-chart.

7. Rule 64 of the Rules, 2021 provides three tier committees to supervise and review the proceeding under Gangster Act. As per Rule 64(1) of the Rules, 2021, the District Level Supervision Committee is constituted under the Chairmanship of District Magistrate/Commissioner of Police which is required to be convened after every quarter to compulsorily review the invocation of Gangster Act upon a person. Therefore, if any mistake is committed in preparing the gang-chart for the invocation of Gangster Act, it is the duty of District Level Supervisory Committee to review the same and take appropriate decision and further Rules 64 (2) of the Rules, 2021 provides Divisional Level Supervision Committee under the Chairmanship of Divisional Commissioner, which shall also quarterly review the report of District Level Supervision Committee. Thereafter, there is provision of State Level Supervision Committee by Rules 64 (3) having responsibility to supervise the Divisional Level Supervision Committee and District Level Supervision Committee on half yearly basis.

8. This Court is of the view that if the District Level Supervisory Committee and State Level Supervisory Committee properly perform its duty of supervision of proceeding under the Gangster Act then the mistake committed by competent authorities could be rectified and there is no need to interfere by the High Court in the proceeding of Gangster Act.

9. This Court came across number of cases from district Amroha

where the District Magistrate, Amroha and Superintendent of Police Amroha have not properly prepared the gang-chart in accordance with Rules, 2021 and invoked the Gangster Act without looking into the Gangster Act as well as Rules framed therein, leaving the lacuna in preparation of gang-chart which ultimately helped the criminals to get the proceeding under Gangster Act quashed. This is very sorry state of affairs.

10. In such view of the matter, this Court directs the District Magistrate, Amroha to file his personal affidavit to bring on record following information.

i. Whether the joint meeting as required by Rule 5(3)(a) of the Rules, 2021 has been conducted in the present case and minutes thereof has been recorded in the register maintained for that purpose.

ii. Despite the intimation given by the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 about guidelines issued by this Court in Sanni Mishra (supra) case as well as other cases, why he has not followed those guidelines and approved the gang-chart contrary to the Rules, 2021 as well as guidelines of this Court.

iii. Whether any quarterly meeting was conducted by the District Level Supervisory Committee and present matter was considered in that meeting. What are minutes of that meeting.

11. The Divisional Commissioner, Moradabad is also directed to file his personal affidavit to bring on record whether as per Rule 64(2) of the Rules, 2021, the Divisional Level Supervisory Committee has been constituted. If yes, whether the review report of District Level Supervision Committee, Amroha for the cases including the present one registered under Gangster Act during last six months was considered and also place on record the minutes of that meeting.

12. Learned AGA will also seek instructions from the Additional Chief Secretary (Home), Uttar Pradesh whether the State Level Supervisory Committee as required by Rule 64(3) of the Rules, 2021 has been constituted.

13. Put up this case on 22.08.2024 as fresh.

14. As gangster chart of the impugned FIR has serious irregularities and present petition prima facie deserves to be allowed, therefore, further investigation in Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station-Didauli, District- Amroha shall remain stayed so far as petitioner is concerned.

15. Registrar (Compliance) is directed to intimate this order to the Divisional Commissioner, Moradabad, the District Magistrate, Amroha and Superintendent of Police, Amroha for necessary compliance forthwith.

16. It is made clear that if the affidavit is not filed by the District Magistrate, Amroha and the Divisional Commissioner, Moradabad by next date fixed, the Court may consider to summon

them personally."

3. In pursuance of order dated 06.08.2024, learned AGA has filed affidavit on behalf of the District Magistrate as well as of Divisional Commissioner, Moradabad Division, Moradabad but court was not satisfied with the explanation submitted in those affidavits, therefore, those affidavits were returned with the direction to file affidavits with better particulars by order dated 22.08.2024. The order dated 22.08.2024 is quoted as under:

"1. Put up this case on 29.08.2024 as fresh to enable the learned AGA to file better affidavit of the District Magistrate, Amroha as well as Divisional Commissioner, Moradabad specially mentioning the facts whether the Circular dated 21.01.2024 was within their knowledge. He will also file an affidavit of Additional Chief Secretary (Home), Uttar Pradesh about constitution of State Level Supervisory Committee.

2. Interim order, granted earlier, is extended till next date of listing."

4. In pursuance of order dated 22.08.2024, three affidavits were filed, one by District Magistrate, Amroha and another by Divisional Commissioner, Moradabad Division, Moradabad as well as by Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow. All these affidavits are taken on record.

5. From the perusal of the affidavit filed by the District Magistrate, Amroha, this court found that though he admitted that he was aware about the Circular dated 21.01.2024 issued by the State Government regarding the guidelines issued in ***Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others reported in 2024 (1) ADJ 231 (DB)*** but inadvertently because of his engagement in election of Lok Sabha, he could not record proper satisfaction while approving the gang chart and he simply signed the pre-typed

approval. Similarly in the affidavit filed by the Divisional Commissioner, Moradabad Division, Moradabad, he also admitted the fact that he was also aware about the Circular dated 21.01.2024 issued by the State Government and well aware about the order of this court passed in **Sanni Mishra's case (supra)**, but inadvertently he could not follow those guidelines.

6. This court is not satisfied with these explanations submitted by the District Magistrate, Amroha as well as Divisional Commissioner, Moradabad Division, Moradabad. However, taking the lenient view and considering the submission of learned Government Advocate, this court is not making any further observations against these two officers.

7. In the affidavit filed by the Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow, it was mentioned that State Government has constituted State Level Supervisory Committee as required by Rule 64(3) of the U.P. Gangster and Anti Social Activities (Prevention) Rules, 2021 (hereinafter referred to as 'Rules, 2021') and meeting of the same is going to be held in the month of September, 2024 and appropriate guidelines will also be issued in that meeting.

8. From perusal of the affidavit of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow, it appears that though a Committee at State Level was constituted vide order dated 22.08.2024 but it is surprising that no information was given to Principal Secretary, Law and same was given to officers belong to the Home Department,

though, the Principal Secretary, Law is a member of the State Level Committee.

9. It is expected that the State Government will also duly intimate to all members of the State Level Committee constituted under Rule 64(3) of the Rules, 2021, about its constitution.

10. Considering the aforesaid submission on behalf of learned Government Advocate, put up this case on 11.09.2024 as fresh. By that date, learned Government Advocate will file further affidavit of compliance of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow.

Order Date :- 29.8.2024

S.Chaurasia

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 12210 of 2024

Petitioner :- Asif

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Vishal Kumar Sonkar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Put up this case on 24.9.2024 as fresh along with Criminal Misc. Writ Petition No. 15389 of 2024 as well as the already connected cases.
2. In the meantime, S.P., Amroha will also file an affidavit as to whether he was aware of the Circular of the Director General of Police, U.P., dated 19.1.2024 as well as that of the Chief Secretary, Gov. of U.P., dated 21.1.2024 and also the direction issued in ***Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others; 2024 (1) ADJ 231 (DB)*** at the time of signing the gang chart.
3. Interim order, granted earlier, shall continue till the next date of listing.

Order Date :- 11.9.2024

Vandana

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 12210 of 2024

Petitioner :- Asif

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Vishal Kumar Sonkar

Counsel for Respondent :- G.A.

connected with

Case :- CRIMINAL MISC. WRIT PETITION No. - 14724 of 2024

Petitioner :- Anus And Another

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Santosh Kumar Singh

Counsel for Respondent :- G.A.

connected with

Case :- CRIMINAL MISC. WRIT PETITION No. - 15389 of 2024

Petitioner :- Chahat And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Pankaj Sharma, Prashant Sharma

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Two affidavits of compliance has been filed by Sri A.K. Sand, learned Government Advocate, which are taken on record.

2. Heard Sri Vishal Kumar Sonkar, learned counsel for the petitioner in leading petition and Sri Santosh Kumar Singh, learned counsel for the petitioner in connected petition as well as Sri A.K. Sand, learned Government Advocate appearing for the State respondents and perused the record.

3. Leading petition as well as connected Criminal Writ Petition No. 14724 of 2024 (Anus and another vs. State of UP and another) have been filed challenging the impugned First Information Report dated 04.04.2024, registered as Case Crime No. 0176 of 2024, under Section 3 (1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, P.S. Didauli, District Amroha.

4. Another connected Criminal Writ Petition No. 15389 of 2024 (Chahat And 3 Others) has been filed challenging the impugned First Information Report dated 13.8.2024, registered as Case Crime No. 406 of 2024, under Section 3 (1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, P.S. Didoli, District Amroha.

5. This matter was heard on 6.8.2024. On that date, learned counsel for the petitioner submitted that the gang chart was prepared in violation of the Gangster Rules. The order dated 6.8.2024 passed on that date is quoted as under:

"1. Heard Sri Vishal Kumar Sonkar, learned counsel for the petitioner and learned AGA for the State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned first information report dated 04.04.2024 registered as Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha, and for a direction to the respondents not to arrest the petitioner in pursuance of the impugned first information report.

*3. Contention of learned counsel for the petitioner is that while preparing and approving the gang-chart of the impugned FIR, no require satisfaction was recorded by the Superintendent of Police, Amroha and the District Magistrate, Amroha which is contrary to Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (hereinafter referred to as the 'Rules, 2021') as well as guidelines issued by this Court in **Sanni Mishra @ Sanjayan Kumar Mishra vs State of U.P. and others reported in 2024(1) ADJ 231 (DB)** and other cases.*

4. Though learned AGA has opposed the prayer but could not dispute the aforesaid facts which is apparent on record.

5. After hearing the submissions of learned counsel for the parties and perusal of gang-chart, this Court finds that while forwarding the gang-chart, the Superintendent of Police, Amroha did not record satisfaction as required by Rules 16(2) of the Rules, 2021 and it is very surprising that the District Magistrate, Amroha did not record any kind of satisfaction before approving the same. On the one hand, the District Magistrate, Amroha approved the gang-chart without recording any satisfaction as required by Rule 16(3) of the Rules, 2021, on the other hand, he did not look into the satisfaction recorded by Superintendent of Police. This is sheer negligence on the part of the District Magistrate, Amroha.

*6. This Court in the case of **Sanni Mishra (supra)** issued detailed guidelines regarding recording of satisfaction by the competent authority at the time of forwarding and approving the gang-chart which is basis for invocation of U.P. Gangster Act upon any person. Though guidelines issued in **Sanni Mishra (supra)** was already intimated to the District Police Chief by circular dated 19.01.2024 by the Director General of Police and thereafter, the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 to all the District Magistrates for compliance of the guidelines issued in **Sanni Mishra (supra)** case at the time of approving the gang-chart but despite the aforesaid intimation on the part of the Director General of Police and the State Government, the Superintendent of Police, Amroha and the District Magistrate, Amroha failed to comply the above directions while preparing the gang-chart and invoked the U.P. Gangster Act, 1986 against the petitioner. It is responsibility of the District Magistrate to look into the recommendation of Nodal Officer and Superintendent of Police and also conduct joint meeting before approving the gang-chart. Sole responsibility is upon the District Magistrate for preparation of proper gang-chart.*

*7. Rule 64 of the Rules, 2021 provides three tier committees to supervise and review the proceeding under Gangster Act. As per Rule 64(1) of the Rules, 2021, the District Level Supervision Committee is constituted under the Chairmanship of **District Magistrate/Commissioner of Police** which is required to be convened after every quarter to compulsorily review the invocation of Gangster Act upon a person. Therefore, if any mistake is committed in preparing the gang-chart for the invocation of Gangster Act, it is the duty of District Level Supervisory Committee to review the same and take appropriate decision and further Rules 64 (2) of the Rules, 2021*

provides Divisional Level Supervision Committee under the Chairmanship of **Divisional Commissioner**, which shall also quarterly review the report of District Level Supervision Committee. Thereafter, there is provision of State Level Supervision Committee by Rules 64 (3) having responsibility to supervise the Divisional Level Supervision Committee and District Level Supervision Committee on half yearly basis.

8. This Court is of the view that if the District Level Supervisory Committee and State Level Supervisory Committee properly perform its duty of supervision of proceeding under the Gangster Act then the mistake committed by competent authorities could be rectified and there is no need to interfere by the High Court in the proceeding of Gangster Act.

9. This Court came across number of cases from district Amroha where the District Magistrate, Amroha and Superintendent of Police Amroha have not properly prepared the gang-chart in accordance with Rules, 2021 and invoked the Gangster Act without looking into the Gangster Act as well as Rules framed therein, leaving the lacuna in preparation of gang-chart which ultimately helped the criminals to get the proceeding under Gangster Act quashed. This is very sorry state of affairs.

10. In such view of the matter, this Court directs the **District Magistrate, Amroha** to file his personal affidavit to bring on record following information.

i. Whether the joint meeting as required by Rule 5(3)(a) of the Rules, 2021 has been conducted in the present case and minutes thereof has been recorded in the register maintained for that purpose.

ii. Despite the intimation given by the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 about guidelines issued by this Court in Sanni Mishra (supra) case as well as other cases, why he has not followed those guidelines and approved the gang-chart contrary to the Rules, 2021 as well as guidelines of this Court.

iii. Whether any quarterly meeting was conducted by the District Level Supervisory Committee and present matter was considered in that meeting. What are minutes of that meeting.

11. The **Divisional Commissioner, Moradabad** is also directed to file his personal affidavit to bring on record whether as per Rule 64(2) of the Rules, 2021, the Divisional Level Supervisory Committee has been constituted. If yes, whether the review report of District Level Supervision Committee, Amroha for the cases including the present one registered under Gangster Act during last six months was considered and also place on record the minutes of that meeting.

12. Learned AGA will also seek instructions from the Additional Chief Secretary (Home), Uttar Pradesh whether the State Level Supervisory Committee as required by Rule 64(3) of the Rules, 2021 has been constituted.

13. Put up this case on 22.08.2024 as fresh.

14. As gangster chart of the impugned FIR has serious irregularities and present petition prima facie deserves to be allowed, therefore, further investigation in Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha shall remain stayed so far as petitioner is concerned.

15. Registrar (Compliance) is directed to intimate this order to the Divisional Commissioner, Moradabad, the District Magistrate, Amroha and Superintendent of Police, Amroha for necessary compliance forthwith.

16. It is made clear that if the affidavit is not filed by the District Magistrate, Amroha and the Divisional Commissioner, Moradabad by next date fixed, the Court may

consider to summon them personally."

6. Thereafter, the matter was heard on 29.8.2024 and following order was passed:

"1. Heard Sri Pawan Kumar, learned counsel holding brief of Sri Vishal Kumar Sonkar, learned counsel for the petitioner and Sri A.K. Sand, learned Government Advocate along with Sri Pankaj Saxena, learned AGA for the State.

2. This matter was heard on 06.08.2024 and following order was passed:

"1. Heard Sri Vishal Kumar Sonkar, learned counsel for the petitioner and learned AGA for the State-respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned first information report dated 04.04.2024 registered as Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha, and for a direction to the respondents not to arrest the petitioner in pursuance of the impugned first information report.

3. Contention of learned counsel for the petitioner is that while preparing and approving the gang-chart of the impugned FIR, no require satisfaction was recorded by the Superintendent of Police, Amroha and the District Magistrate, Amroha which is contrary to Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (hereinafter referred to as the 'Rules, 2021') as well as guidelines issued by this Court in Sanni Mishra @ Sanjayan Kumar Mishra vs State of U.P. and others reported in 2024(1) ADJ 231 (DB) and other cases.

4. Though learned AGA has opposed the prayer but could not dispute the aforesaid facts which is apparent on record.

5. After hearing the submissions of learned counsel for the parties and perusal of gang-chart, this Court finds that while forwarding the gang-chart, the Superintendent of Police, Amroha did not record satisfaction as required by Rules 16(2) of the Rules, 2021 and it is very surprising that the District Magistrate, Amroha did not record any kind of satisfaction before approving the same. On the one hand, the District Magistrate, Amroha approved the gang-chart without recording any satisfaction as required by Rule 16(3) of the Rules, 2021, on the other hand, he did not look into the satisfaction recorded by Superintendent of Police. This is sheer negligence on the part of the District Magistrate, Amroha.

6. This Court in the case of Sanni Mishra (supra) issued detailed guidelines regarding recording of satisfaction by the competent authority at the time of forwarding and approving the gang-chart which is basis for invocation of U.P. Gangster Act upon any person. Though guidelines issued in Sanni Mishra (supra) was already intimated to the District Police Chief by circular dated 19.01.2024 by the Director General of Police and thereafter, the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 to all the District Magistrates for compliance of the guidelines issued in Sanni Mishra (supra) case at the time of approving the gang-chart but despite the aforesaid intimation on the part of the Director General of Police and the State Government, the Superintendent of Police, Amroha and the District Magistrate, Amroha failed to comply the above directions while preparing the gang-chart and invoked the U.P. Gangster Act, 1986 against the petitioner. It is responsibility of the District Magistrate to look into the recommendation of Nodal Officer and Superintendent of Police and also conduct joint meeting before approving the gang-chart. Sole responsibility is upon the District Magistrate for preparation of proper gang-chart.

7. Rule 64 of the Rules, 2021 provides three tier committees to supervise and review the proceeding under Gangster Act. As per Rule 64(1) of the Rules, 2021, the District

Level Supervision Committee is constituted under the Chairmanship of District Magistrate/Commissioner of Police which is required to be convened after every quarter to compulsorily review the invocation of Gangster Act upon a person. Therefore, if any mistake is committed in preparing the gang-chart for the invocation of Gangster Act, it is the duty of District Level Supervisory Committee to review the same and take appropriate decision and further Rules 64 (2) of the Rules, 2021 provides Divisional Level Supervision Committee under the Chairmanship of Divisional Commissioner, which shall also quarterly review the report of District Level Supervision Committee. Thereafter, there is provision of State Level Supervision Committee by Rules 64 (3) having responsibility to supervise the Divisional Level Supervision Committee and District Level Supervision Committee on half yearly basis.

8. This Court is of the view that if the District Level Supervisory Committee and State Level Supervisory Committee properly perform its duty of supervision of proceeding under the Gangster Act then the mistake committed by competent authorities could be rectified and there is no need to interfere by the High Court in the proceeding of Gangster Act.

9. This Court came across number of cases from district Amroha where the District Magistrate, Amroha and Superintendent of Police Amroha have not properly prepared the gang-chart in accordance with Rules, 2021 and invoked the Gangster Act without looking into the Gangster Act as well as Rules framed therein, leaving the lacuna in preparation of gang-chart which ultimately helped the criminals to get the proceeding under Gangster Act quashed. This is very sorry state of affairs.

10. In such view of the matter, this Court directs the District Magistrate, Amroha to file his personal affidavit to bring on record following information.

i. Whether the joint meeting as required by Rule 5(3)(a) of the Rules, 2021 has been conducted in the present case and minutes thereof has been recorded in the register maintained for that purpose.

ii. Despite the intimation given by the Chief Secretary, Govt. of U.P. by circular dated 21.01.2024 about guidelines issued by this Court in Sanni Mishra (supra) case as well as other cases, why he has not followed those guidelines and approved the gang-chart contrary to the Rules, 2021 as well as guidelines of this Court.

iii. Whether any quarterly meeting was conducted by the District Level Supervisory Committee and present matter was considered in that meeting. What are minutes of that meeting.

11. The Divisional Commissioner, Moradabad is also directed to file his personal affidavit to bring on record whether as per Rule 64(2) of the Rules, 2021, the Divisional Level Supervisory Committee has been constituted. If yes, whether the review report of District Level Supervision Committee, Amroha for the cases including the present one registered under Gangster Act during last six months was considered and also place on record the minutes of that meeting.

12. Learned AGA will also seek instructions from the Additional Chief Secretary (Home), Uttar Pradesh whether the State Level Supervisory Committee as required by Rule 64(3) of the Rules, 2021 has been constituted.

13. Put up this case on 22.08.2024 as fresh.

14. As gangster chart of the impugned FIR has serious irregularities and present petition prima facie deserves to be allowed, therefore, further investigation in Case Crime No.0176 of 2024, under Section-3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Didauli, District- Amroha shall remain stayed so far as petitioner is concerned.

15. Registrar (Compliance) is directed to intimate this order to the Divisional Commissioner, Moradabad, the District Magistrate, Amroha and Superintendent of Police, Amroha for necessary compliance forthwith.

16. It is made clear that if the affidavit is not filed by the District Magistrate, Amroha and the Divisional Commissioner, Moradabad by next date fixed, the Court may consider to summon them personally."

3. In pursuance of order dated 06.08.2024, learned AGA has filed affidavit on behalf of the District Magistrate as well as of Divisional Commissioner, Moradabad Division, Moradabad but court was not satisfied with the explanation submitted in those affidavits, therefore, those affidavits were returned with the direction to file affidavits with better particulars by order dated 22.08.2024. The order dated 22.08.2024 is quoted as under:

"1. Put up this case on 29.08.2024 as fresh to enable the learned AGA to file better affidavit of the District Magistrate, Amroha as well as Divisional Commissioner, Moradabad specially mentioning the facts whether the Circular dated 21.01.2024 was within their knowledge. He will also file an affidavit of Additional Chief Secretary (Home), Uttar Pradesh about constitution of State Level Supervisory Committee.

2. Interim order, granted earlier, is extended till next date of listing."

4. In pursuance of order dated 22.08.2024, three affidavits were filed, one by District Magistrate, Amroha and another by Divisional Commissioner, Moradabad Division, Moradabad as well as by Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow. All these affidavits are taken on record.

5. From the perusal of the affidavit filed by the District Magistrate, Amroha, this court found that though he admitted that he was aware about the Circular dated 21.01.2024 issued by the State Government regarding the guidelines issued in **Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others reported in 2024 (1) ADJ 231 (DB)** but inadvertently because of his engagement in election of Lok Sabha, he could not record proper satisfaction while approving the gang chart and he simply signed the pre-typed approval. Similarly in the affidavit filed by the Divisional Commissioner, Moradabad Division, Moradabad, he also admitted the fact that he was also aware about the Circular dated 21.01.2024 issued by the State Government and well aware about the order of this court passed in **Sanni Mishra's case (supra)**, but inadvertently he could not follow those guidelines.

6. This court is not satisfied with these explanations submitted by the District Magistrate, Amroha as well as Divisional Commissioner, Moradabad Division, Moradabad. However, taking the lenient view and considering the submission of learned Government Advocate, this court is not making any further observations against these two officers.

7. In the affidavit filed by the Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow, it was mentioned that State Government has constituted State Level Supervisory Committee as required by Rule 64(3) of the U.P. Gangster and Anti Social Activities (Prevention) Rules, 2021 (hereinafter referred to as 'Rules, 2021') and meeting of the same is going to be held in the month of September, 2024 and appropriate guidelines will also be issued in that meeting.

8. From perusal of the affidavit of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow, it appears that though a Committee at State Level was constituted vide order dated 22.08.2024 but it is surprising that no information was given to Principal Secretary, Law and same was given to officers belong to the Home Department, though, the Principal Secretary, Law is a member of the State Level Committee.

9. It is expected that the State Government will also duly intimate to all members of

the State Level Committee constituted under Rule 64(3) of the Rules, 2021, about its constitution.

10. Considering the aforesaid submission on behalf of learned Government Advocate, put up this case on 11.09.2024 as fresh. By that date, learned Government Advocate will file further affidavit of compliance of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow."

7. In pursuance of the order dated 29.8.2024, learned Government Advocate has filed the affidavit of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow and affidavit of the Superintendent of Police, Amroha.

8. In the affidavit of Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow, it is admitted that there are certain lacunae while preparing the gang chart and necessary steps have been taken by issuing necessary directions.

9. In the affidavit of Superintendent of Police, Amroha, it is admitted that the guidelines issued by this Court in Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others reported in 2024 (1) ADJ 231 (DB) as well as D.G.P. circular dated 19.1.2024 and the Chief Secretary circular dated 21.1.2024 were in his knowledge but due to inadvertent negligence he could not noticed the same and the gang chart was forwarded by signing the pre-typed satisfaction. In the affidavit, Superintendent of Police, Amroha also expressed his regret and unconditional apology.

10. Learned Government Advocate has also informed the Court that the main lacuna was found on the part of the District Magistrate, Amroha (Mr. Rajesh Kumar Tyagi), who has approved the gang chart without signing the same or recording any satisfaction, therefore, he was transferred from district Amroha and now he has been attached to secretariat and he was not given any field posting.

11. In such view of the matter, this court resists from issuing any direction against these officers and leaves it open to the State Government to take appropriate action. However, on perusal of the gang chart, it appears that gang chart was prepared absolutely in violation of the Gangster Rules, 2021, approving the same by signing the pre-typed satisfaction and the District Magistrate has not recorded any satisfaction at all and even did not sign his approval.

12. In view of the above, the gang chart as well as the impugned FIRs are liable to be quashed.

13. Accordingly, leading petition as well as connected petitions are **allowed**. The impugned First Information Report dated 04.04.2024, registered as Case Crime No. 0176 of 2024, under Section 3 91) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, P.S. Didauli, District Amroha in the leading petition as well as in connected Criminal Writ Petition No. 14724 of 2024 (Anus and another vs. State of UP and another) and the impugned First Information Report dated 13.8.2024, registered as Case Crime No. 406 of 2024, under Section 3 (1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, P.S. Didoli, District Amroha in another connected

Criminal Writ Petition No. 15389 of 2024 (Chahat And 3 Others) as well as the gang charts are hereby quashed.

14. However, the authority concerned is at liberty to initiate fresh proceedings under the Gangsters Act after preparing the gang chart of the impugned F.I.R. as per the Rules, 2021 as well as in view of the direction issued by the Division Bench of this Court in ***Sanni Mishra (supra)*** and in Criminal Misc. Writ Petition No. 9930 of 2024 (**Abdul Lateef @ Mustak vs. State of UP and 2 others**) dated 26.7.2024 as well as guidelines issued by the State Government.

Order Date :- 24.9.2024/Abhishek