



REPORTABLE

CRIMINAL APPEAL NO. _____ OF 2026
(@ SPECIAL LEAVE PETITION (CRL.) NO. 2815/2026)

Shankar Singh And Anr. Respondent(s)

JUDGMENT

K. V. Viswanathan, J.

- 1) Leave granted.
- 2) The present appeal calls in question the correctness of the order dated 25.08.2025 in Criminal Revision No. 1669 of 2025 passed by the High Court of Judicature at Allahabad. By the said order, the High Court, while setting aside the order of the Sessions Court dated 03.03.2025, held as under: -

“17. The Sessions Trial No.0934 of 2023 (State of U.P. vs.. Pancham Singh and others) which is running concurrently before the Court of Sessions Judge, Lalitpur, shall be kept in abeyance and the learned Special Judge is directed to expedite the proceedings of Gangster Sessions Trial No.01 of 2024 to satisfy the intent of mandatory provisions contained in Section 12 of the Gangsters Act.”

3) We must record, at the outset, that on 13.04.2026, while staying the order of the High Court, we directed the Trial Court to proceed with the trial and dispose of the same within two months and report compliance. We have been informed that the Sessions Court has concluded the trial in Session Trial No. 934 of 2023 and convicted all the accused in the said case under Section 302 of the Indian Penal Code, 1860 (for short 'the IPC') apart from other Sections. A Compliance Report has also been received from the Additional District and Sessions Judge, Lalitpur, to the said effect.

BRIEF FACTS: -

4) The appellant, who is the brother of the deceased (one Raghvendra Singh) lodged an FIR on 30.09.2023 being No. 0342 of 2023 under Sections 147, 323, 504, 506, 302 and 427 of the IPC at Police Station Talbehata, District - Lalitpur, Uttar Pradesh against 9 (nine) accused persons including the first respondent herein. The allegation was that Raghavendra

Singh was mercilessly assaulted and brutally beaten to death by the accused persons with lathis, stones and metal rods.

5) After a detailed investigation, in October 2023, charge sheets were filed against 7 (seven) accused persons in all under Sections 147, 323, 504, 506, 302 and 427 of the IPC before the learned Chief Judicial Magistrate, Lalitpur. On 27.11.2023, cognizance was taken and on 08.12.2023, the case was committed to the Court of Additional District and Sessions Judge, Lalitpur, who registered the case as Session Trial No. 0934 of 2023.

6) In the meantime, on 12.11.2023, in relation to the said crime, a Report was prepared by the Station House Officer (SHO) to the effect that the accused had committed the said offence as part of a constituted gang. Accordingly, a Gang Chart was prepared and forwarded to the higher authorities on 14.11.2023 and 20.12.2023, respectively.

7) On 01.01.2024, pursuant to the Gang Chart, the SHO, Talbehat, Lalitpur, lodged an FIR No. 0001 of 2024 under

Section 2(b)(i) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 (hereinafter referred to as 'the Gangsters Act') against the said accused persons. When matters stood thus, on 20.02.2024, a learned Single Judge of the High Court, while disposing the bail application of one of the accused, directed to conclude the trial in Session Trial No. 934 of 2023 by proceeding with day-to-day hearing so that the entire trial could be concluded within a period of one year.

8) On 18.01.2025, 7 (seven) accused persons filed an application before the Additional District and Sessions Judge Lalitpur, praying to keep the proceedings in Session Trial No. 934 of 2023 in abeyance on the ground that the very same accused persons were also accused in the proceedings under the Gangsters Act and the trial under the Gangsters Act should have precedence over the trial of any other case against the accused.

9) The Additional District and Sessions Judge, Lalitpur, by order of 03.03.2025, dismissed the application. The learned

Sessions Judge relied on the judgment of this Court in ***Dharmendra Kirthal vs. State of U.P. & Anr.***, (2013) 8 SCC 368 and observed that the legislature while enacting Section 12 did not intend to delay the trial proceedings for the cases under the Gangsters Act and further considering the progress that the trial has achieved for the offences under the IPC, held that Section 12 of the Gangsters Act would have no application and there was no justification for keeping the sessions trial in abeyance. The operative order of the learned Sessions Judge reads as under: -

“8. In the present case, after the committal from the Chief Judicial Magistrate (CJM) Court, the case was registered as a session trial on December 8, 2023. Subsequently, on February 26, 2024, charges were framed under sections 147, 302/149, 323/149, 427, and 504 against the accused, Pancham Singh, and six others. By January 8, 2025, the prosecution had completed its evidence, and a statement under section 313 of the Criminal Procedure Code (CrPC) was scheduled to be recorded. The date for recording statement under sec. 313 was fixed for January 17, 2025, while the current application was submitted only on January 18, 2025.

9. According to the application 70 C, just the charge sheet has been submitted in the gangster case, and the trial has (sic.) yet to begin. As a result the trial for ST No. 934/2023 is already over, while the trial for the gangster case has (sic.) yet to begin. If this submissions of defence is accepted then a large number of cases will be thus delayed and frustrated.

In present matter, there is no justification for preferring the gangster case above the session trial case. Based on the foregoing discussion, it is evident that provisions of Section 12 of the Gangster Act is not applicable in this case. As a result, Application 70 C, having no legal force, is liable to be rejected.”

10) Aggrieved by the said order, respondent No. 1 filed a Criminal Revision before the High Court of Judicature at Allahabad, contending that the intention of the legislature was to provide precedence to cases under the Gangsters Act in comparison to any other case against the same accused. The High Court, accepting the contention, directed that Session Trial No. 934 of 2023 shall be kept in abeyance and the learned Special Judge was directed to expedite the proceedings of Gangsters Session Trial No. 1 of 2024. It is this order, which is in challenge before us at the behest of the *de facto* complainant.

11) We have heard Mr. Aviral Kashyap, learned counsel for the appellant, Mr. Ashish Pandey, learned counsel for the respondent No. 1-accused and Mr. Arup Banerjee, learned counsel for the State.

CONTENTIONS: -

12) Learned counsel for the *de facto* complainant contended that the High Court has misinterpreted the provisions of Section 12 of the Gangsters Act. According to the learned counsel, all that Section 12 mandates is that only in the event of clash of dates between the two cases, the case under the Gangsters Act would get priority. It is further submitted on behalf of the *de facto* complainant that at the time when the application was filed for keeping Session Trial No. 934 of 2023 in abeyance, only chargesheet had been submitted under the Gangsters Act and its trial was yet to begin whereas in Session Trial No. 934 of 2023, prosecution had completed its evidence and the statements under Section 313 of the Code of Criminal Procedure, 1973 (for short 'the Code') of the accused were scheduled to be recorded.

13) The learned counsel for the State has filed a counter affidavit copiously referring to the judgment in ***Dharmendra Kirthal (supra)*** and has concluded by stating as follows:

“13. The contention of the petitioner is that on the basis of Section 12 of the aforesaid Act, the accused persons are trying to put the finality of a Trial of a brutal murder case, which is just round the corner, into some temporary oblivion. It is very debatable as to whether Section 12 of the Act can have any flexibility in the facts and circumstances of the instant case. In this connection it is required to submit one sentence spoken by Lord Denning that sometimes it is necessary and essential to mitigate the rigors of law. This sentence of The Master of Rolls still lingers on, in the Judicial circuits because it has stood the test of time. That Section 12 of the Act is no more Res Integra but it is required to be examined as to whether the trial of an alleged atrocious and brutal day light murder will get mired / stalled because of strict and rigid provision of Section 12 of The Act. Thus submitted.”

14) Learned counsel for the accused defended the impugned order.

QUESTION FOR CONSIDERATION:-

15) In this background, the question that arises for consideration is whether the High Court was justified in directing that Session Trial No. 934 of 2023, then pending in the Court of Additional District and Sessions Judge/Special Judge (U.P. Dacoity A.A.), Lalitpur, was to be kept in abeyance and in further directing that the proceedings under the Gangsters Act in the Session Trial No. 01/2024 be expedited,

in view of the mandatory provision of Section 12 of the Gangsters Act?

ANALYSIS AND REASONING:-

OBJECT OF SECTION 12 - NOT TO FREEZE OTHER PROCEEDINGS

16) Section 12 of the Gangsters Act reads as under:-

“Trial by Special Courts to have precedence.

S. 12. The trial under this Act of any offence by Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.”

17) In ***Dharmendra Kirthal (supra)***, this Court, interpreting Section 12 of the Gangsters Act, held as under:-

“32. The provision clearly mandates that the trial under this Act of any offence by the Special Court shall have precedence and shall be concluded in preference to the trial in such other courts to achieve the said purpose. The legislature thought it appropriate to provide that the trial of such other case shall remain in abeyance. It is apt to note here that “any other case” against the accused in “any other court” does not include the Special Court. The emphasis is on speedy trial and not denial of it. **The legislature has incorporated such a provision so that an accused does not face trial in two cases simultaneously and a case before the Special Court does not linger owing to clash of dates in trial. It is also worthy to note that the Special Court has been conferred jurisdiction under sub-section (1) of Section 8 of the Act to try any other offences with which the accused may, under any other law for the**

time being in force, have been charged and proceeded at the same trial.

36. On a careful scrutiny of the provision, it is quite vivid that the trial is not hampered as the trial in other courts is to remain in abeyance by the legislative command. Thus, the question of procrastination of trial does not arise. As the trial under the Act would be in progress, the accused would have the fullest opportunity to defend himself and there cannot be denial of fair trial. Thus, in our considered opinion, the aforesaid provision does not frustrate the concept of fair and speedy trial which are the imperative facets of Article 21 of the Constitution.”

(Emphasis supplied)

18) In ***Mobin Iftikhar Zaidi vs. State of U.P. and Others***, 2011

SCC OnLine All 4160, a learned Single Judge, interpreting

Section 12 of the Gangsters Act, held as under:-

“6. A perusal of the aforesaid provision reveals the legislative intent behind the said provision and its object was that the trial under the Gangsters Act should be given preference and the same should not get unduly delayed because of pendency of other cases in other courts. The legislative intention was not that the proceedings of other offences must be kept in abeyance till conclusion of trial under the Gangsters Act. Its intent was that the dates fixed in the other trials and in the case under the Gangsters Act should not clash together, in order to ensure that the trial under the Gangsters Act does not get unduly delayed or hampered with and reaches to its logical conclusion at the earliest. It can not be the intention of the legislature that if a person is required in other cases in crimes of such heinous nature such as murder, dacoity, loot and rape etc, the trial of those offences should not proceed further till conclusion of trial under Gangsters Act. In view of the above, it is clear that the legislative intent is that the trial

under the Gangsters Act need be given preference to other trial.

7. Further more the statutory provision has to be interpreted in manner which is in consonance with the legislative intent and also harmonious to other provisions of law. Section 309 Cr. P.C. provides that if examination of witness has been started, the Session trial has to be conducted on day to day basis. and the said provision has to be read in conjunction with Section 12 of the Act and if both the provisions are read together, it will be very clear that the legislative intent of section 12 of the Act is that trial under the Gangsters Act, should not be hampered because of the dates fixed in the other trials and the trial under the Gangsters Act should be given preference. It cannot be the intention of the legislature that pendency of trial under Gangsters Act requires that other sessions trials should be stayed, which would not only be against the legislature intent but against public policy. Those cases which are pending against the accused persons for other offences excepting under the Gangsters Act, can be fixed and decided on those dates where the proceedings under the Gangsters Act has not been fixed. Further more it has to be seen that if the trial under other offences are to be stayed till the conclusion of the trial under the Gangsters Act, then it would mean that no gangster can be convicted on account of his being a gangster. It does not mean that the criminal activities, which are the earlier offences of a gangster, should not be tried expeditiously. Further more it is constitutional mandate that the trials should be concluded expeditiously and such interpretation that till Gangster trial is concluded the trial of other offences should be stayed is not in consonance with the constitutional mandate. Still again, it is to be borne in mind that this Court as well as the Hon'ble Apex Court has repeatedly held that the trial of criminal cases should be decided expeditiously, and thus, the

interpretation that till pendency of trial under the Gangsters Act, the trial of other criminal offences be stayed, would be in the teeth of the well settled principle of law so laid down by this court as well as the Hon'ble Apex Court.”
(Emphasis supplied)

19) In view of the above, it is crystal clear that the purpose behind Section 12 was not to freeze the other proceedings against the accused till proceedings under the Gangsters Act were concluded. The purpose was only to indicate that in the event of clash of dates, the proceedings under the Gangsters Act were to get priority.

EXPEDITIOUS CONCLUSION OF TRIAL – MANDATE OF SECTION 346 BNSS

20) Further, one cannot be oblivious of the mandate of Section 346 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as ‘the BNSS’), which is a reincarnation of Section 309 of the Code. Section 346 of the BNSS reads as under:-

“346. Power to postpone or adjourn proceedings.-

(1) In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the

adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him:

Provided also that-

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;

(c) the fact that the advocate of a party is engaged in another Court, shall not be a ground for adjournment;

(d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though

present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.-If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.-The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.”

21) Section 309 of the Code reads as follows:-

“309. Power to postpone or adjourn proceedings.—(1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376AB, , section 376B, section 376C, section 376D, section 376DA or section DB of the Indian Penal Code (45 of 1860), the inquiry or trial shall be completed within a period of two months from the date of filing of the charge sheet.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.

Provided also that-

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused."

22) Section 346 of the BNSS mandates to continue proceedings from day-to-day basis until all witnesses in attendance are examined, unless the court finds the

adjournment of the same beyond the following day to be necessary for reasons to be recorded. Moreover, stringent conditions are imposed for adjournment of proceedings. Harmoniously reading Section 12 of the Gangsters Act with Section 346 of the BNSS (Section 309 of the Code), the conclusion is irresistible that all that Section 12 of the Gangsters Act contemplates is that, in the event of a clash of dates, the proceedings under the Gangsters Act would be given preference.

‘VICTIM’ HAS A RIGHT TO SPEEDY TRIAL TOO: -

23) There is one more significant aspect of the matter. Article 21 of the Constitution of India guarantees right to speedy trial. This Court has held that right to speedy trial is not only the prerogative of the accused but is also a valuable right of the victim and any inordinate delay in the conclusion of the trial, could have a deleterious effect on the society in general. If the interpretation canvassed by the respondent-accused is accepted, it will render Section 12 of the Gangsters Act *ultra vires* Article 21 of the Constitution of India. It will also give a

handle to the accused to delay all other cases under the pretext that the proceedings are pending under the Gangsters Act. Tremendous injustice will result as with every day's delay, preservation of evidence will become a challenge. Witnesses will be that much less forthcoming and even if they are, with passage of time, human memory would have begun to fade. This Court cannot countenance any such interpretation which will make a mockery of the judicial process.

24) In *Rattiram and Others vs. State of M.P.*, (2012) 4 SCC 516, this Court held as under:-

“59. At this juncture, we would like to refer to two other concepts, namely, speedy trial and treatment of a victim in criminal jurisprudence based on the constitutional paradigm and principle. The entitlement of the accused to speedy trial has been repeatedly emphasised by this Court. It has been recognised as an inherent and implicit aspect in the spectrum of Article 21 of the Constitution. **The whole purpose of speedy trial is intended to avoid oppression and prevent delay. It is a sacrosanct obligation of all concerned with the justice dispensation system to see that the administration of criminal justice becomes effective, vibrant and meaningful. The concept of speedy trial cannot be allowed to remain a mere formality [see Hussainara Khatoon (1) v. State of Bihar**

[(1980) 1 SCC 81, Moti Lal Saraf v. State of J&k (2006) 10 SCC 560 and Raj Deo Sharma v. State of Bihar (1998) 7 SCC 507].

60. While delineating on the facets of speedy trial, it cannot be regarded as an exclusive right of the accused. The right of a victim has been given recognition in Mangal Singh v. Kishan Singh [(2009) 17 SCC 303 wherein it has been observed thus: (SCC p. 307, para 14)

"14.... Any inordinate delay in conclusion of a criminal trial undoubtedly has a highly deleterious effect on the society generally, and particularly on the two sides of the case. But it will be a grave mistake to assume that delay in trial does not cause acute suffering and anguish to the victim of the offence. In many cases the victim may suffer even more than the accused. There is, therefore, no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence."

61. It is worth noting that the Constitution Bench in Iqbal Singh Marwah v. Meenakshi Marwah [(2005) 4 SCC 370 : (SCC p. 387, para 24) though in a different context, had also observed that delay in the prosecution of a guilty person comes to his advantage as witnesses become reluctant to give evidence and the evidence gets lost."

(Emphasis supplied)

APPLICATION TO FACTS AT HAND: -

25) Insofar as the present case is concerned, the learned trial Judge, on 03.03.2025, while dismissing the application of the accused, rightly observed that charges had been framed on 26.02.2024 and by 08.01.2025, the prosecution had completed

its evidence and statements under Section 313 of the accused were scheduled to be recorded. It was at this stage, on 18.01.2025, that the accused have filed an application seeking that the trial be kept in abeyance pending conclusion of trial in the Gangsters Act. The learned trial Judge, on 03.03.2025, had rightly noticed that when the application was rejected, the trial under the Gangsters Act was yet to begin since chargesheet had just been submitted. There was no issue of clash of dates warranting the application of Section 12 of the Gangsters Act.

26) In our considered view, the High Court clearly erred in reversing this order of the trial Judge. The High Court, in its order of 25.08.2025, in spite of noticing the pronouncement of this Court in ***Dharmendra Kirthal (supra)*** and in spite of observing that it was never the intention of the legislature when it enacted the Gangsters Act to stop the proceedings in the case other than the Gangsters Act and that Section 12 was intended only to provide a solution when there was a clash of

dates, still in the concluding paragraph recorded a totally contradictory finding and directed the Session Trial No. 934 of 2023 to be kept in abeyance. The order of the High Court is completely untenable.

CONCLUSION: -

27) For the reasons stated above, we have no hesitation in setting aside the impugned order dated 25.08.2025 of the High Court. As already indicated, pursuant to our interim order dated 13.04.2026, Session Trial No. 934 of 2023 has already concluded and the accused stand convicted.

28) The appeal is allowed in the above terms.

.....J.
[**K. V. VISWANATHAN**]

.....J.
[**ARUN PALLI**]

New Delhi;
August 17, 2026.