



2026:AHC-LKO:64965

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 5222 of 2026

Babboo Shah

.....Applicant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Of
Home Lko. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Rudra Pratap Singh, Sumit Chauhan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 12

HON'BLE MANISH MATHUR, J.

1. Heard learned counsel for petitioner and learned Additional Government Advocate for respondent Nos. 1 & 2.
2. Earlier vide order dated 14.07.2026, notice to opposite party No.3 stands dispensed with.
3. Since opposite party No.3 is indicated to be the Station House Officer, who had initially prepared the gang chart, his role does not come within the definition of a victim and therefore, dispensing of notice to opposite party No.3 is reiterated and affirmed.
4. Petition under Section 482 CrPC has been filed challenging proceedings arising out of Criminal Case No. 1118 of 202, *State of U.P. v. Yusuf Ali @ Daddan Shah and another*, Crime No. 417/2021 under Section 3(1) of Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 [here-in-after referred to as '**Act of 1986**'], Police Station Payagpur, District Bahraich, charge-sheet No.1 dated 19.02.2022 and cognizance & summoning order dated 07.12.2022 which is pending in the Court of Additional Sessions Judge (Gangsters Act), Bahraich.
5. Learned counsel for petitioner submits that the gang chart which has been prepared against the petitioner indicates him as a member of a gang and exhibits three cases pending against him being Case Crime No.242 of 2020, under Sections 352, 504 & 506 IPC; Case Crime No. 115 of 2021 under Sections 504, 506, & 507 IPC and Case Crime No. 130 of 2021 under

Sections 384, 506, 504, 386 & 389 IPC.

6. He submits that as would be evident from the gang chart that after its preparation, the same was forwarded on 10.11.2021 which was approved by the Additional Superintendent of Police on 11.11.2021, by the Superintendent of Police on 11.11.2021 and by the District Magistrate on 15.11.2021. It is submitted that gang chart clearly indicates non-application of mind by any of the authorities concerned since they have merely signed on a pre-prepared gang chart in a cyclostyled manner and therefore such preparation of gang chart is clearly in violation of Circular dated 24.10.2003 as well as consequent Government Order dated 02.01.2004 which clearly describes that prior to preparation and approval of gang chart, application of mind and consultation between the authorities is a *sine qua non*. He has also placed reliance on judgments rendered by Hon'ble Supreme Court in ***Vinod Bihari Lal v. State of U.P. and another*** reported in 2025 SCC OnLine SC 1216 as well as by a co-ordinate bench of this Court in Petition under Section 482 CrPC bearing No. ***6547 of 2025, Rajendra Tyagi and 2 others v. State of U.P. and another***.

7. On the basis of aforesaid, he submits that the proceedings were initiated by means of impugned cognizance order dated 07.12.2022 without adverting to the aforesaid factors and therefore, the cognizance order is also under challenge.

8. Learned Additional Government Advocate refuting submissions advanced by learned counsel for petitioner submits that gang chart prepared is in consonance with the Circular and Government Order inasmuch as the approval has clearly been recorded in the gang chart itself which exhibits the aspect that consultation had ensued between the authorities whereafter only the gang chart was approved. He further submits that the judgments relied upon by learned counsel for petitioner are inapplicable since they are based on the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021 which came into effect only on 27.12.2021, whereas the gang chart in the present case had already been prepared on 15.11.2021 and therefore, the Rules not having retrospective applicability, would be inapplicable.

9. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is evident that the present aspect

would be governed by the Circular dated 24.10.2003 and Government Order dated 02.01.2004 which were prevalent at the time of preparation of gang chart.

10. Paragraphs - 5 & 6 of Circular dated 24.10.2003 are as follows:-

"5- वरिष्ठ पुलिस अधीक्षक / पुलिस अधीक्षक प्रभारी अपने स्तर पर गिरोह के सदस्यों के आपराधिक विवरण तथा उनके क्रिया कलापों का भली भांति परीक्षण के उपरान्त जिलाधिकारी के साथ विचार-विमर्श करके सूची को अन्तिम रूप प्रदान करेंगे।

6- प्रतिवेदन तथा गंग चार्ट पर वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक एवं जिलाधिकारी के अनुमोदन के उपरान्त अग्रिम कार्यवाही की जायेगी।"

11. The aforesaid provision therefore clearly stipulates that the Superintendent of Police or In-charge Senior Superintendent of Police, as the case may be, is required to examine criminal history of the person against whom gang chart is prepared and is required to finalize the same in consultation with the District Magistrate. It has also been stipulated in paragraph - 6 that the aforesaid authorities would thereafter approve the gang chart whereafter the proceedings will be held in terms of statutory provisions.

12. The Government Order dated 02.01.2004 has also indicated certain stipulations in paragraphs 3 & 4 thereafter which are as follows:-

"3- वरिष्ठ पुलिस अधीक्षक / पुलिस अधीक्षक प्रभारी अपने स्तर पर गिरोह के सदस्यों के अपराधिक विवरण तथा उनके क्रिया कलापों का भली भांति परीक्षण के उपरान्त जिलाधिकारी के साथ विचार विमर्श करके इस सूची को अन्तिम रूप प्रदान करेंगे।

4- उक्त आख्या तथा गैंग चार्ट पर वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक प्रभारी एवं जिलाधिकारी के अनुमोदन के उपरान्त अग्रिम कार्यवाही की जायेगी।"

13. The aforesaid provisions are also in consonance with Circular dated 24.10.2003 and a conjoint analysis of both the provisions clearly indicates the stipulation that a gang chart is not to be prepared in a cursory manner in view of criminal consequences upon the accused and it is to obviate such a situation that directions had been issued for proper examination of the criminal history of an accused whereafter it is required to be finalized only after consultation with the District Magistrate concerned.

14. The aforesaid provisions stipulate the aspect of a gang chart being prepared in a careful manner which is evident from the fact that highest district authorities, such as, Superintendent of Police and District Magistrate are required to approve of the gang chart and such preparation and approval thereof is not left at the mercy of subordinate officials. Provisions therefore clearly indicate the importance attached by the police authorities and the State Government to proper deliberation and subsequent preparation of gang chart.

15. Although a perusal of Circular and Government Order does not in any manner stipulate that the application of mind and deliberation is required to be indicated in the gang chart with the only stipulation indicated of its approval but the said aspect can very well be considered in the light of judgment rendered in the case of **Vinod Bihari Lal** (supra) which is as follows:-

*"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 CrI. 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."

16. The aforesaid judgment therefore enunciates that although a discretion has been conferred upon higher authorities, it is not to be exercised in an arbitrary, vague and fanciful manner, but is required to be in a legal and regulated method as prescribed. It has been indicated that since the satisfaction of approving authority is a *sine qua non* in terms of Act of 1986 the approving authority is bound to record its satisfaction in his own words to indicate application of mind before approving the gang chart. It has also been held that the satisfaction so recorded need not be exhaustive but is to be exercised indicating independent application of mind justifying exercise of jurisdiction under the Act of 1986. It has also been held that the satisfaction

must not be a cyclostyled reproduction communicated by the recommending authority and therefore, such application of mind can be displayed only when the approving authority meticulously refers to the material on record, on the basis of which he has come to the conclusion regarding existence of grounds justifying registration of an FIR under the Act of 1986.

17. Upon applicability of the aforesaid judgment, in the present facts and circumstances of the case, as indicated here-in-above, that although there is no stipulation either in the Circular or in the Government Order regarding expression of application of mind by the approving authorities, but in the light of aforesaid judgments, it is imperative for the approving authority to indicate application of mind and deliberation between the authorities whereafter only the gang chart could be finalized.

18. Hon'ble Supreme Court in **Assistant Commissioner, Commercial Tax Department v. M/s Hukla and Brothers** reported in (2010) 4 SCC 785, **Kranti Associates Private Limited v. Masood Ahmed Khan** reported in (2010) 9 SCC 496 and **State of Punjab v. Bhag Singh** reported in (2004) 1 SCC 547 has clearly enunciated the aspects that reasons in an order are its soul from which the mind of authority concerned is expressed and can be understood in case the order is under challenge.

19. In the present case, the gang chart clearly indicates it being prepared and forwarded by the Nodal Officer which is again forwarded by the Additional Superintendent of Police, Bahraich simply indicating it being forwarded to the Approving Authority. It is also relevant that neither the Superintendent of Police nor the District Magistrate concerned has indicated any reason, deliberation or application of mind to the criminal history of the petitioner while approving gang chart. A glaring display of non-deliberation is also evident that both the authorities have given their approval on different dates with the approval of Superintendent of Police being accorded on 11.11.2021 and that of District Magistrate on 15.11.2021.

20. A perusal of impugned cognizance order dated 07.12.2022 also displays an abject non-application of mind by the trial court to the aforesaid aspects and has merely passed the cognizance order in a routine manner. The same is also not in consonance with the law enunciated.

21. The said aspect itself evidences that there was no deliberation between the Superintendent of Police and the District Magistrate. The gang chart has

been approved without any such deliberation or even exhibition of application of mind.

22. It is a sad state of affairs where higher governmental officials of the rank of Superintendent of Police and District Magistrate concerned are unmindful of recurring judgments of Constitutional Courts with regard to application of mind and display of fairness. The officials concerned are hereby directed to adhere to judgments of constitutional authorities and to display fairness in state action.

23. In view of discussion made here-in-above, it being apparent that the gang chart has been prepared in violation not only of Circular dated 24.11.2003 and Government Order dated 02.01.2004 but also of judgments by Constitutional Courts of the country, the said gang chart dated 15.11.2021, charge sheet dated 19.02.2022, consequent cognizance and summoning order dated 07.12.2022 and the entire proceedings arising out of Criminal Case No. 1118 of 202, *State of U.P. v. Yusuf Ali @ Daddan Shah and another*, Crime No. 417/2021, Case Crime No. 417 of 2021 registered under Section 3(1) of Act of 1986, Police Station Payagpur, District Bahraich are hereby quashed.

24. Consequently, petition succeeds and is **allowed**. Consequences to follow.

September 15, 2026
lakshman

(Manish Mathur,J.)