



2026:AHC:56069

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 1212 of 2026

Khemchandra @ Khemu

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Shiv Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. Present application under Section 528 B.N.S.S. has been preferred for quashing the Charge Sheet dated 01.05.2010 and the cognizance order dated 24.05.2010 as well as the entire proceedings of the G.S.T. No.50 of 2019 (State Versus Sahab Singh and another) arising out of Case Crime No.111 of 2010, under Section 2/3 of Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station- Mauranipur, District-Jhansi, pending in the court of Special Judge Gangster Act, Jhansi.
3. Pursuant to earlier order dated 16.01.2026, learned A.G.A. has produced instructions, which are taken on record. Based on instructions, it is submitted by him that the applicant has been acquitted in the base case by the learned trial court vide judgment and order dated 05.02.2019.
4. Learned counsel for the applicant submits that the proceeding under the Gangster Act was initiated against the applicant on the basis of following case:-

"(i) Case Crime No. 1367 of 2009, under Sections 302, 201 I.P.C. and Section 3(2)5 of SC/ST Act, P.S. Mauraipur, District Jhansi."
5. It is further submitted that the applicant has been acquitted, in aforesaid Case Crime No. 1367 of 2009, vide judgment and order dated 05.02.2019, passed by the trial court in S.S.T. No.26 of 2010, copy of which has been appended as Annexure 5 to this application.

6. Learned counsel for the applicant further submits that no cause of action survive now before the prosecution to initiate proceedings under Section 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, against the applicant since he has been acquitted in the base case. It is further submitted that once in the base case, the applicant has been acquitted, the instant proceedings under the Gangster Act cannot be drawn.

7. In support of his submission, learned counsel for the applicant has placed reliance on the judgment passed by the **Farhana vs. State of Uttar Pradesh and others [2024 0 INSC 118]**, and stated that once the applicant has been acquitted in the base case, the proceedings under the Gangster Act cannot go on, therefore, the entire proceeding is unsustainable and liable to be quashed by this Court.

8. *Per contra*, learned A.G.A. opposed the prayer made by the applicant and submitted that the proceedings of Gangster Act cannot be quashed on account of quashing or acquittal or dismissal of the base case. The impugned chargesheet under the Gangster Act cannot be quashed.

9. In support of his submission, learned A.G.A. relied upon the judgment passed by a co-ordinate Bench of this Court in **Paras Chaudhary Vs. State of U.P. and another [Appl. U/S 482 No. 11117 of 2024, decided on 03.05.2024]**.

10. After having rival contentions submitted by the learned counsels for the parties, it is crystal clear that the proceedings of the base case are no more pending against the applicant and once the proceedings of the base case depicted in the gang chart are quashed or the applicant has been acquitted, the proceedings under the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, are liable to be quashed.

11. In a recent judgment of **Farhana (Supra)**, decided on 19.02.2024, the Hon'ble Apex Court quashed the proceedings of U.P. Gangsters Act on the ground that base case shown against the applicant has been quashed by the High Court. The relevant paragraphs of **Farhana (Supra)** is reproduced hereunder.

"12. From a bare perusal of Section 2(b)(i) of the Gangsters Act, it would

become apparent that the person alleged to be the member of the gang should be found indulging in anti-social activities which would be covered under the offences punishable under Chapters XVI, or XVII or XXII IPC. There is no dispute that the case set up by the prosecution against the appellants insofar as the offences under the Gangsters Act are concerned, is limited to Section 2(b)(i) reproduced supra and none of the other clauses of the provision have been pressed into service for the proposed prosecution.

13. Needless to say that for framing a charge for the offence under the Gangsters Act and for continuing the prosecution of the accused under the above provisions, the prosecution would be required to clearly state that the appellants are being prosecuted for any one or more offences covered by anti-social activities as defined under Section 2(b).

14. There being no dispute that in the proceedings of the sole FIR registered against the appellants for the offences under Chapter XVII IPC being Crime Case No. 173 of 2019, the appellants stand exonerated with the quashing of the said FIR by the High Court of Judicature at Allahabad by exercising the powers under Section 482 of Code of Criminal Procedure, 1973, vide order dated 3rd March, 2023 passed in Application No. 7228 of 2023.

15. Hence, the very foundation for continuing the prosecution of the appellants under the provisions of the Gangsters Act stands struck off and as a consequence, the continued prosecution of the appellants for the said offence is unjustified and tantamounts to abuse of the process of Court.

16. As a consequence of the discussion made herein above, the impugned orders dated 14th November, 2022 and 6th December, 2022 passed by the High Court of Judicature at Allahabad are quashed and set aside."

12. In wake of the preceding discussion, since the proceedings of the base case are no more pending against the applicant, therefore, Charge Sheet dated 01.05.2010 and the cognizance order dated 24.05.2010 as well as the

entire proceedings of the G.S.T. No.50 of 2019 (State Versus Sahab Singh and another) arising out of Case Crime No.111 of 2010, under Section 2/3 of Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station- Mauranipur, District- Jhansi, pending in the court of Special Judge Gangster Act, Jhansi, are hereby quashed only in pursuance of applicant herein.

13. The present application is, accordingly, **allowed**.

(Vivek Kumar Singh,J.)

March 17, 2026

Radhika