2025 INSC 198

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025

[@ SPECIAL LEAVE PETITION (CRL.) NO. _____ OF 2025]

[@ DIARY NO.23042 OF 2024]

JAY KISHAN AND ORS. …APPELLANTS

A1: JAY KISHAN

A2: KULDEEP KATARA

A3: KRISHNA KATARA

VERSUS

THE STATE OF UTTAR PRADESH AND ORS. …RESPONDENTS

R1: THE STATE OF UTTAR PRADESH

R2: COMMISSIONER OF POLICE, AGRA

R3: STATION HOUSE OFFICER, POLICE STATION BAMRAULI KATARA

R4: VIKAS RANA, STATION HOUSE OFFICER

R5: DR. D.V. SHARMA

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

Heard learned senior counsel/counsel for the parties.

2. Delay condoned.

3. Leave, as prayed for, granted.

4. The present appeal arises out of the Final Judgment and Order dated 17.01.2024 (hereinafter referred to as the "Impugned Judgment")[1], passed by a learned Division Bench of the High Court of Judicature at Allahabad (hereinafter referred to as the "High Court") in Criminal Miscellaneous Writ Petition[2] No.19541/2023, whereby the High Court dismissed the Writ Petition filed by the appellants for quashing the First Information Report[3] being CC[4] No.0092 of 2023, under Sections 2 and 3 of the Uttar Pradesh Gangsters & Anti-Social Activities (Prevention) Act, 1986, (hereinafter referred to as the "Act") lodged at Police Station - Bamrauli Katara, District - Agra, Uttar Pradesh.

BACKGROUND:

[1] **2024:AHC:8159:DB**.
[2] Abbreviated to "CRLMWP".
[3] Abbreviated to "FIR".
[4] Abbreviation for "Case Crime".

5. The FIR impugned before the High Court came to be registered against the appellants at the instance of the Station House Officer, Police Station - Bamrauli Katara on 26.11.2023 alleging, *inter alia*, that the appellants, being members of a gang led by Appellant No.1[5] were involved in the following three criminal cases: (1) CC No.119/2022 under Sections 395/427/506 of the Indian Penal Code, 1860[6]; (2) CC No.58/2023 under Sections 420/406/120B/504/506 of the IPC, and; (3) CC No.60/2023 under Sections 120B/420/406/506 of the IPC. Thus, they were liable to be prosecuted for the offences punishable under the Act.

6. The FIR further narrated that the gang had a criminal history and with a view to impose a restriction on the activities of the said gang, the FIR was being registered after obtaining prior approval of the Gang Chart from the Commissioner of Police, Agra.

7. The appellants assailed the FIR by way of the captioned criminal writ petition before the High Court on the premise that three predicate FIRs are related to the property dispute between two families and the

[5] Hereinafter referred to as “A1”.
[6] Hereinafter referred to as the “IPC”.

allegations made are civil in nature and hence, the proceedings under the Act were liable to be quashed.

8. The High Court dismissed the Writ Petition and granted liberty to apply for anticipatory bail/bail, while clarifying that it had not adjudicated the contentions raised therein.

SUBMISSIONS BY THE APPELLANTS:

9. Learned counsel for the appellants submitted that the allegations in the CCs, basis which provisions of the Act had been invoked against the appellants, were civil in nature. It was urged that the allegations therein did not relate to any anti-social activity, and that a purely civil dispute was being given a criminal colour by the *de-facto* complainant. As an example, it was submitted that for the same property and on the same cause of action, despite Civil Suit No.1380/2022 pending, CC No.60/2023 has been registered against the appellants.

10. Learned counsel further submitted that CC No.58/2023 was lodged by Respondent No.5[7] alleging that he wanted to purchase the land of the appellants and had paid an advance amount of Rs.54,00,000/- (Rupees Fifty-Four Lakhs) to the appellants, however, the appellants refused to execute the Sale Deed in his favour. The appellants refuted such allegation and countered that sale consideration was in fact decided as Rs.1,54,40,000/- (Rupees One Crore Fifty-Four Lakhs and Forty Thousand). As R5 paid only Rs.54,00,000/- (Rupees Fifty-Four Lakhs) and wanted to pay the balance amount later, hence the Sale Deed was not executed. The Police's Inquiry Report also finds that the sale did not get completed due to non-payment of full consideration. It was stated that appellants are ready to return the advance payment, and that a Civil Suit filed by the appellants with respect to this very transaction is pending.

11. Apropos CC No.60/2023, learned counsel submitted that this case was lodged by R5's wife alleging that the appellants executed Exchange Deed dated 10.01.2023 with her for exchange of properties. However, she later found out that with regard to the same property, the appellants had already executed an Agreement to Sell in favour of one Mr. Sunil

[7] Hereinafter referred to as "R5".

Sharma. To this, the appellants contend that the Exchange Deed has been fully implemented. The informant therein viz. R5's wife and the appellants have taken possession and acquired title of the lands allocated to them, respectively, under the Exchange Deed. It was stated that the Agreement to Sell *supra* has been cancelled through a duly executed and registered Cancellation Deed.

12. Learned counsel stressed that CC No.119/2022 was lodged under Sections 395/427/506 of the IPC by one Imran Khan, who is R5's henchman, alleging that he was a tenant of one Gayatri Devi (A1's mother) on a piece of land and later he purchased the said property from another Gayatri Devi (a different lady with the same name as A1's mother). However, subsequently, Gayatri Devi (A1's mother) and the appellants allegedly came and took away some of Imran Khan's belongings and destroyed some structures on the property. The appellants counter this version by contending that the land in question is owned by A1's mother Gayatri Devi. The tenant/informant, in an attempt to grab the land, at R5's behest, it is urged, manufactured a Sale Deed in his favour executed by a different Gayatri Devi. It is advanced that CC No.119/2022 was lodged to pre-empt any action from

the appellants to take back this land (owned by A1's mother) from the tenant/informant Imran Khan or demand rent for occupation thereof. The appellants have filed a suit against the different Gayatri Devi who allegedly executed a Sale Deed in favour of the tenant/informant, which is pending adjudication. However, during investigation, the Police have dropped the charge u/s 395 of the IPC.

13. Learned counsel for the appellants summed up his arguments by stating that the predicate offences alleged in the FIR under challenge cannot be termed as anti-social activity as they involve cases of civil nature and between two families. It was canvassed that the present case is a blatant example of misuse, by the State, of the provisions of the Act, which has been enacted to control criminal gangs from terrorizing the public and/or disturbing public peace and tranquillity.

SUBMISSIONS BY RESPONDENTS NO.1, 2 AND 3:

14. Learned counsel for the Respondents No.1, 2 and 3 (State of Uttar Pradesh and its officers) submitted that the three appellants are hardened criminals and are running a gang. It was stated that they are

involved in various criminal activities like extortion, fraudulent property dealings, *goonda*ism, etc. They intimidate innocent and law-abiding persons of the area. The Commissioner of Police based on the materials available granted approval for registering the FIR against the appellants. It was pointed out that a Gang Chart as required under the Act has been prepared and approved by the Commissioner of Police, Agra.

15. Learned counsel concluded by submitting that the High Court has rightly dismissed the CRLMWP as the correctness of allegations needs to be tested based on the materials collected through investigation. As in the case at hand, investigation is ongoing, the FIR registered against the appellants cannot be quashed at a nascent stage.

SUBMISSIONS BY RESPONDENT NO.5:

16. Learned counsel for R5 submitted that the predicate offences in CCs No.58/2023, 60/2023 and 119/2022, clearly disclose commission of cognizable criminal offences and cannot be said to be civil in nature. The appellants, individually as well as collectively, have used violence, threat and coercion, with the object of disturbing the public order and for

gaining pecuniary advantage for themselves. It was submitted that the appellants have indulged in anti-social activities.

17. Further, learned counsel urged that the Civil Suit does not exonerate the appellants from criminal liability. It was urged that in ***Iqbal Singh Marwah v Meenakshi Marwah*****, (2005) 4 SCC 370** and ***Prem Raj v Poonamma Menon*****, 2024 SCC OnLine SC 483**, this Court very expressly laid down the law that there is no bar on a Civil Court to consider the evidence led in criminal proceedings. It has been informed that another case i.e., CC No.74/2023 dated 27.09.2023 has also been lodged against the appellants by Imran Khan.

18. It was canvassed that the provisions of the Act are to ensure that the offences under the Act should be given preference and should be tried expeditiously and that too, by the Special Courts, to achieve the object and purpose of the enactment of the Act. Grant of any sort of relief, submitted learned counsel, to the appellants would amount to undoing the efforts taken by the State as well as the victims concerned in trying to bring the appellants' gang to task. It was impressed that

interference by this Court at this stage would result in a huge setback to the cause of justice.

19. It was contended that even one single case against the person concerned can make him liable to be charged under the Act, as held by this Court in ***Shraddha Gupta v State of Uttar Pradesh*****, 2022 SCC OnLine SC 514**. A decision of the Allahabad High Court *viz*. ***Dharmendra v State of Uttar Pradesh*****, 2024 SCC OnLine All 634** was cited to submit that the law and procedure regarding invocation of the Act have been duly complied with, in the present case.

ANALYSIS, REASONING AND CONCLUSION:

20. At the outset, it would be useful to reproduce Sections 2(b) and (c) of the Act, which read as under:

> '***2.*** *In this Act,-*
> xxx
> ***(b)*** *"Gang" means a group of persons, who acting either singly or collectively, by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person, indulge in anti-social activities, namely-*

(i) offences punishable under Chapter XVI, or Chapter XVII, or Chapter XXII of the Indian Penal Code, or
(ii) distilling or manufacturing or storing or transporting or importing or exporting or selling or distributing any liquor, or intoxicating or dangerous drugs, or other intoxicants or narcotics or cultivating any plant, in contravention of any of the provisions of the U.P. Excise Act, 1910 or the Narcotic Drugs and Psychotropic Substances Act, 1985 or any other law for the time being in force, or
(iii) occupying or taking possession of immovable property otherwise than in accordance with law, or setting-up false claims, for title or possession of immovable property whether in himself or any other person, or
(iv) preventing or attempting to prevent any public servant or any witness from discharging his lawful duties, or
(v) offences punishable under the Suppression of Immoral Traffic in Women and Girls Act, 1956, or
(vi) offences punishable under Section 3 of the Public Gambling Act, 1867, or
(vii) preventing any person from offering bids in auction lawfully conducted, or tender, lawfully invited, by or on behalf of any Government department, local body or public or private undertaking, for any lease or rights or supply of goods or work to be done, or
(viii) preventing or disturbing the smooth running by any person of his lawful business, profession, trade or employment or any other lawful activity connected therewith, or
(ix) offences punishable under Section 171-E of the Indian Penal Code, or in preventing or obstructing any public election being lawfully held, by physically preventing the voter from exercising his electoral rights, or
(x) inciting others to resort to violence to disturb communal harmony, or
(xi) creating panic, alarm or terror in public, or
(xii) terrorising or assaulting employees or owners or occupiers of public or private undertakings or factories and causing mischief in respect of their properties, or
(xiii) inducing or attempting to induce any person to go to foreign countries on false representation that any employment,

trade or profession shall be provided to him in such foreign country, or
(xiv) kidnapping or abducting any person with intent to extort ransom, or
(xv) diverting or otherwise preventing any aircraft or public transport vehicle from following its scheduled course;
(xvi) offences punishable under the Regulation of Money Lending Act, 1976;
(xvii) illegally transporting and/or smuggling of cattle and indulging in acts in contravention of the provisions in the Prevention of Cow Slaughter Act, 1955 and the Prevention of Cruelty to Animals Act, 1960;
(xviii) human trafficking for purposes of commercial exploitation, bonded labour, child labour, sexual exploitation, organ removing and trafficking, beggary and the like activities;
(xix) offences punishable under the Unlawful Activities (Prevention) Act, 1966;
(xx) printing, transporting and circulating of fake Indian currency notes;
(xxi) involving in production, sale and distribution of spurious drugs;
(xxii) involving in manufacture, sale and transportation of arms and ammunition in contravention of Sections 5, 7 and 12 of the Arms Act, 1959;
(xxiii) felling or killing for economic gains, smuggling of products in contravention of the Indian Forest Act, 1927 and The Wildlife Protection Act, 1972;
(xxiv) offences punishable under the Entertainment and Betting Tax Act, 1979;
(xvv) indulging in crimes that impact security of State, public order and even tempo of life.

(c) *"gangster" means a member or leader or organiser of a gang and includes any person who abets or assists in the activities of a gang enumerated in clause (b), whether before or after the commission of such activities or harbours any person who has indulged in such activities;*'

21. The above definitions are exhaustive.

22. However, the answer to the moot question would lie in the interpretation accorded to the definitions *supra* in conformity with the object and intent of the Act. This would have to be examined in juxtaposition with the FIR.

23. Scrutiny of the cases cited in the FIR to invoke the Act against the appellants *prima facie* reveal that the same substantially relate to and/or emanate from certain property and monetary transactions. The said transactions are primarily civil in nature. No doubt, addition of various Sections of the IPC in the three CCs may come under the ambit of the offences specified in Section 2(b) of the Act. However, undoubtedly, mere invocation of certain Sections of the IPC could not and would not preclude the Court from, in a manner of speaking, lifting the veil, to understand what actually lies beneath the material, which is sought to be made the basis for invoking the Act. In ***Mohammad Wajid v State of Uttar Pradesh*, 2023 SCC OnLine SC 951**, this Court stated:

> '***34.*** *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground*

that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.'

(emphasis supplied)

24. Our reference *supra* to lifting the veil finds resonance in the '*read in between the lines*' approach adverted to in ***Mohammad Wajid*** (*supra*).

Ultimately, the right to life and liberty guaranteed under Article 21[8] of the Constitution of India cannot be overlooked only due to the reason that criminal cases have been registered against a person. It would be plainly unwise to accord any unfettered discretion to the authorities concerned when it comes to invoking the Act. The more stringent or penal a provision, greater the emphasis and requirement for it to be strictly construed. In ***Md. Rahim Ali @ Abdur Rahim v State of Assam*, 2024 SCC OnLine SC 1695**, it was stated:

> '***45.*** *The debate has long been settled that penal statutes must be construed strictly [Tolaram Relumal v. State of Bombay, (1954) 1 SCC 961 : (1955) 1 SCR 158 at Para 8; Krishi Utpadan Mandi Samiti v. Pilibhit Pantnagar Beej Ltd., (2004) 1 SCC 391 at Paras 57-58; Govind Impex Pvt. Ltd. v. Appropriate Authority, Income Tax Dept., (2011) 1 SCC 529 at Para 11, and; Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company, (2018) 9 SCC 1 at Para 24]. Equally, 'If special provisions are made in derogation to the general right of a citizen, the statute, in our opinion, should receive strict construction. …' …*'[9]
>
> (emphasis supplied)

25. Compliance and strict adherence mean that only an eyewash by making allegations with a view to set up grounds to justify resort to the Act would not suffice. Material(s) must be available to gauge the probability of commission of the alleged offence(s). Necessarily, this

[8] '*21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.*'

[9] The relevant paragraphs from the decisions referred to in this passage, with added emphasis by the Court, have been duly footnoted in ***Md. Rahim Ali*** (*supra*).

would have to be of a level higher than being merely presumptive. We have perused the FIR-CC 92 of 2023, certain extracts from the English translation whereof read as under:

> '*…giving illusion of selling his plot, committing treachery, to extort money and land, amassing illegal money, for deriving unfair financial physical benefits through unfair means, earn money through anti-social activities with which they maintain them and their families. There is fear and terror of them in general public. Due to their fear and terror, no person of public becomes ready to give witness against them and to resister case… The gang leader and the members of the gang have committed antisocial activities. This gang leader and his active members are involved in committing anti-social activities. Therefore, it is not justified for the above accused to remain free between general public. Keeping in view the crimes committed by them…* ' (sic)

26. While the three CCs find reference in the FIR-CC 92 of 2023, a glance at the afore-extract would exhibit a certain vagueness. In our considered opinion, the same would not meet the threshold requirement to enable recourse to the Act. Obviously, the allegations in the CCs are yet to be adjudicated finally by a competent court. We may hasten to add that not for a minute are we to be misunderstood to mean that the Act cannot be invoked basis pending cases. Of course, it can be. However, the case(s) against the person(s) *qua* whom the Act is to be invoked cannot be run-of-the-mill – it must be serious. The severity required for

the underlying case(s), we think, ought not to be judicially strait-jacketed as a lot would turn on the specific peculiarities of each case. The situation would be very different though, if the allegations levelled in the underlying case(s) had been proved at trial - it could have been a good ground to sustain and justify action under the Act. In that scenario, we would have ordinarily refrained from any interdiction. In the present matter, for the three CCs, as trial has yet to commence/is continuing/has not been concluded, for the present, there remain only indications and open-endedness to the allegations. In other words, *in praesenti*, the underlying CCs do not appear to fall within the net of '*violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage*', as mandated under Section 2(b) of the Act. The situation, thus, would clearly operate to the benefit of the appellants. As the CCs referred to in the FIR are three, we are not required to deal with ***Shraddha Gupta*** (*supra*).

27. The matter is capable of being looked at from a different lens. The complainant(s)/informant(s) in the three CCs have resorted to their remedies under criminal law. In fact, a fourth CC, as informed by learned

counsel for R5, also stands lodged against the appellants. Assuming that all the allegations in the three (or four, including the CC not referred to in the FIR) CCs are correct, there is no mention of any instance, post-registration of the said CCs, of the appellants implementing/acting on the said alleged threats. The complainant(s)/informant(s) have also resorted, where required, to civil proceedings. In the overall picture that emerges from the above, resort to the Act by the State seems premature and uncalled for.

28. For the reasons aforesaid, the FIR namely CC No.0092/2023 stands quashed. The Impugned Judgment shall stand set aside. Proceedings consequential to CC No.0092/2023 stand effaced. Observations hereinabove are only on the issues arising and are not definitive *re* the pending CCs, which shall be dealt with on their own merits by the courts concerned. We have also not expressed our mind on the pending civil proceeding(s) between the private parties *inter-se*.

29. I.A.[10] No.123849/2024 is allowed. I.A. No.123851/2024 seeks exemption from filing official translations of certain Annexures[11]; in view of

[10] Abbreviation for Interlocutory Application.
[11] P-1, P-2 and P-3.

final decision, the said I.A. is disposed of as infructuous. I.A. No.128534/2024 is allowed; permission granted, the Supplementary Affidavit is taken on record. I.A. Nos.128536/2024, 137817/2024, 150397/2024 and 190824/2024 seek exemptions, respectively, from filing official translations of documents appended with the concerned filings – in light of the final disposal of the matter, these applications are rendered infructuous and stand closed.

30. The appeal stands allowed in the aforesaid terms.

31. **SLP (Criminal) Diary No.2673/2023**[12] is pending before a Coordinate Bench. The petitioner therein is before this Court for quashing of the FIR invoking the Act against him and other ancillary reliefs. Order dated 19.04.2024 therein records as under:

> '*1. Learned ASG representing the State of Uttar Pradesh seeks and is granted eight weeks' time to consider the desirability of laying down some parameters/guidelines for the purpose of invoking provisions of the Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Act, 1986.*
> *2. Post the matter on 02.08.2024.*'

[12] ***Gorakh Nath Mishra v State of Uttar Pradesh & Ors.***.

32. Pursuant to the above, it was noted in Order dated 12.12.2024 that guidelines had been formulated by the State. We expect the State machinery to adhere to the guidelines, subject to orders as may be passed by the Coordinate Bench *in seisin*.

…….....J.
[SUDHANSHU DHULIA]

…….....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
FEBRUARY 12, 2025