



2026:AHC:125175

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPLICATION U/S 482 NO.- 6547 of 2025

Rajendra Tyagi And 2
Others

.....Applicants(s)

Versus

State of U.P. and
Another

.....Respondent(s)

Counsel for Applicant(s) : Ronak Chaturvedi
Counsel for Respondent(s) : G.A.

In Chamber

AFR

Reserved on: 27.02.2026
Delivered on: 03.06.2026

HON'BLE VINOD DIWAKAR, J.

1. Heard Shri Ronak Chaturvedi, learned counsel for the applicants, Shri Anoop Trivedi, learned Additional Advocate General assisted by Shri Paritosh Kumar Malviya, learned A.G.A.-I for the State-respondent, and perused the material available on record.

I- BACKGROUND, HISTORY OF PROCEEDINGS, AND ANALYSIS OF ORDERS:

(A) Genesis of the Case and Initial Orders

2. In brief, the prosecution's case is that Rajendra Tyagi, son of Siyanand, presently residing at of House No. A-30E, Nandgram, Police Station Nandgram, Ghaziabad, and permanent resident of Village

Kakanda, Police Station Muradnagar, Ghaziabad, is the leader of an organized gang, of which his son Deepak Tyagi is also a member. Both, acting together for their financial, material, and personal gains, are alleged to have committed acts of fraud worth crores of rupees, forgery, and criminal intimidation in the name of providing plots/land in the districts of Ghaziabad and Jalaun. The offences committed by this gang fall under Chapter XVII of the Indian Penal Code, 1860. It is further alleged that no member of the public has the courage to testify or file a complaint against this gang and that their free movement is not in the interest of the general public. The gang leader and gang members are stated to be not physically disabled. The crimes recorded in the gang chart, comprising previously committed anti-social activities by the gang leader and gang members, fall within the definition of Section 2(Kha)(1) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 (hereinafter referred to as the 'the Act of 1986'), and it is accordingly submitted that in order to control the criminal activities of gang leader Rajendra Tyagi and the members of his gang, it is necessary to take action under Section 3(1) of the Act of 1986.

3. On the basis of the aforesaid facts, FIR No. 0101 of 2023 was registered on 12.02.2023 under Sections 2 and 3 of the Act of 1986, at Police Station Nandgram, District Ghaziabad, against **(i)** Rajendra Tyagi, **(ii)** Deepak Tyagi, and **(iii)** Lalita Tyagi, the applicants herein. Applicant No. 1 has been shown as the gang leader, applicant no. 2 is the son of applicant no. 1 and has been shown as a gang member, and applicant No. 3 is the daughter-in-law of applicant no. 1, a homemaker, who has also been shown as a gang member. Aggrieved by the registration of the said FIR, the applicants have filed the present application under Section 482 of the Code of Criminal Procedure, 1973, challenging the invocation of the provisions of the Act of 1986 against them.

4. The case was initially listed on 22.02.2025, when the learned counsel for the applicants raised the specific issue of alleged misuse of police powers, contending that the gang chart pertaining to the applicants was approved by the Commissioner of Police, Ghaziabad, in contravention of Rule 5(3)(a) of the U.P. Gangsters and Anti-Social

Activities (Prevention) Rules, 2021 (hereinafter referred to as 'the Rules'). The primary grievance was that no joint meeting had been held between the Commissioner of Police and the District Magistrate before according such approval, and that the police authorities proceeded against the applicants without the requisite subjective satisfaction being arrived at in the manner prescribed by law, and procedure established by law. The applicants placed reliance upon *Vinay Kumar Gupta v. State of U.P. and Others*¹.

5. It is further contended that applicant nos. 1 and 2 were arrested on 13.02.2023, the very next day after registration of the FIR, and applicant no. 3 was arrested on 14.02.2023, the second day after registration of the FIR. The applicant no. 3 was granted bail on 03.05.2023 and was subsequently released on 06.05.2023, whereas applicant nos. 1 and 2 were granted bail on 31.05.2023 and were subsequently released on 03.06.2023.

6. It is also contended that the disputes underlying the present case are essentially civil in nature. There existed a pre-existing civil dispute between applicant nos. 1 and 2 and the complainants of both the base case FIRs, and a Memorandum of Undertaking had also been executed between applicant no. 2 and the complainant, as there were commercial transactions between the parties. It is submitted that there is no material on record which could substantiate that the applicants are habitual criminals so as to satisfy the requirements of Section 2(b) and (c) of the Act of 1986, and that neither are the applicants running a gang nor are they gangsters. It is accordingly submitted that the essential ingredients of Section 2(b) and (c) of the Act of 1986 are not satisfied in respect of the applicants.

7. So far as applicant no. 3 is concerned, she is a homemaker and the daughter-in-law of applicant no. 1. There is no allegation against her in either of the charge sheets filed in the base cases, and yet she was

¹ 2025 SCC OnLine All. 3026

compelled to remain in judicial custody for approximately 80 days before release.

8. After hearing the learned counsel for the applicants and the learned Additional Government Advocate, this Court considered it appropriate to give a detailed hearing to the issues raised by the learned counsel for the applicants, as well as other connected issues. Accordingly, this Court passed a series of orders from time to time, a brief description of which is recapitulated hereunder for ready reference.

9. By order dated 03.03.2025, this Court examined the notification dated 19.01.2024 placed on record by the learned A.G.A. and found that it nowhere stated that in Commissionerate districts, there was no requirement for the District Magistrate to participate in a joint meeting with the Commissioner of Police for the purpose of approving the gang chart in compliance with Rule 5(3)(a) of the Rules. The Court observed that in all districts other than those notified as Commissionerates, the gang charts are being approved in a joint meeting between the District Magistrate and the Senior Superintendent of Police, whereas in the Commissionerate system, the approval is being accorded solely by the Commissioner of Police. This practice was found, *prima facie*, to contravene Rule 5(3)(a) of the Rules, as well as prior notifications issued by the State Government from time to time. Accordingly, the Additional Chief Secretary (Home), Lucknow, was directed to file a personal affidavit addressing four specific questions: **(i)** the relevance and significance of the District Magistrate's participation in the joint meeting in non-Commissionerate districts; **(ii)** the legal basis for waiving the District Magistrate's participation in Commissionerate districts; **(iii)** whether the objectives of the Act of 1986 would be effectively achieved by such waiver; and **(iv)** whether any government notification empowering the Commissioner of Police to approve the gang chart independently or in a joint meeting with subordinate officers has been issued. Simultaneously, the Commissioner of Police, Ghaziabad, was also directed to file a personal affidavit disclosing the basis for approving the gang chart without a joint meeting with the District Magistrate, the details of the joint

meeting held, the material available before the approving authority, and the methodology employed to quantify the alleged earnings of the gang.

10. By order dated 11.03.2025, after taking on record the personal affidavits of the Principal Secretary (Home) and the Commissioner of Police, Ghaziabad, the Court heard arguments and examined the government's reliance on the notification dated 26.11.2022 and Section 20(2) of the Cr.P.C. The Court raised specific queries regarding the rationale for excluding the District Magistrate from the joint meeting in Commissionerate areas while mandating such inclusion in non-Commissionerate districts, and also examined the basis for including the District Magistrate's name in Rule 5(3)(a) of the Rules. The Government Advocate sought time to obtain instructions, which was granted, and the matter was adjourned for further arguments.

11. By order dated 12.11.2025, this Court heard the Additional Advocate General at length, who submitted that in the Commissionerate system, the gang chart is forwarded by the concerned Assistant Commissioner of Police (A.C.P.) and sanction therefor is accorded by the Commissioner of Police in a joint meeting with the concerned Deputy Commissioner of Police (D.C.P.). This procedure was stated to be founded on the Government notification dated 26.11.2022, whereby the Governor, in exercise of powers under Section 20(1) of the Cr.P.C., appointed all Assistant Commissioners of Police, Additional Deputy Commissioners of Police, Additional Commissioners of Police, Joint Commissioners of Police, and Commissioners of Police of the metropolitan areas of Agra, Ghaziabad, and Prayagraj as Executive Magistrates. Further, in exercise of powers under Section 20(2) of the Cr.P.C., the Governor appointed all Additional Commissioners of Police, Joint Commissioners of Police, and Commissioners of Police of the said metropolitan areas as Additional District Magistrates and conferred upon them all powers of the District Magistrate with respect to their respective jurisdictions. The U.P. Gangsters Act, 1986 was noted to be listed at Serial No. 14 of paragraph 3 of the said notification. Notwithstanding this, the learned Additional

Advocate General sought further time to obtain instructions on the issues highlighted in the order dated 11.03.2025 (supra).

II- DIRECTION ISSUED BY ORDER DATED 27.11.2025:

12. Detailed Analysis of the order dated 27.11.2025 is of significant importance and constitutes the most substantive order in the course of these proceedings. It merits detailed examination for the following reasons:

(A) Examination of the Instructions filed by the Home Department

13. In compliance with the direction contained in the order dated 12.11.2025, the learned Additional Advocate General produced instructions dated 26.11.2025, which were taken on record. Upon examining these instructions, this Court found the justification offered by the Home Department to be largely theoretical and not founded upon empirical data. The Home Department sought to justify the exclusion of the District Magistrate from the mandatory requirement of the joint meeting under Rule 5(3)(a) of the Rules, by placing reliance on Sections 107, 117, 133, 144 and 145 of the Cr.P.C. The instructions further placed reliance on the notification dated 26.11.2022 issued under Section 20(2) of the Cr.P.C., which replaced the SSP and District Magistrate with the Commissioner of Police and the Deputy Commissioner of Police in districts operating under the Commissionerate system, insofar as the provisions of the Act of 1986 and other Acts are concerned.

14. The instructions acknowledged that in the normal administrative framework, the District Magistrate is the head of criminal administration of the district and occupies a pre-eminent position in taking decisions concerning action against organized criminals. However, the position of the Home Department is that under the Commissionerate system, the Police Commissioner, functioning as both the head of criminal administration and the head of Executive Magistracy, supervises preventive proceedings under Sections 107-116, 144 and 145 of the Cr.P.C. The instructions further sought to justify the arrangement by contending that police Commissionerates have predominantly been

established in metropolitan cities with populations exceeding ten lakh persons, where the nature and volume of urban crime differ significantly from rural areas. It was submitted that metropolitan centres serve as hubs for sophisticated organized crime, including complex financial fraud, real estate syndicates, and cyber extortion; that minimizing the administrative layer of the District Magistrate ensures rapid dismantlement of fast-moving criminal networks without bureaucratic latency; and that since urban policing requires technical expertise in areas such as economic offences and digital forensics- capabilities housed within the police force rather than the revenue administration- direct police oversight ensures more effective enforcement against modern gangsterism.

(B) Court's Response to the Home Department's Justification

15. This Court, while making clear that it entertained no confusion regarding the authority of the legislative or executive branch to declare any district as a metropolitan area or to establish a Commissionerate for administrative purposes, firmly stated that its concern lay elsewhere. The Court expressed unequivocal agreement with the "noble objective" of adopting the Commissionerate system as a national best practice- on the lines of Delhi, Mumbai, Bengaluru, and Hyderabad- for achieving zero tolerance towards crime and criminals, however, the affidavit and instructions filed by the Home Department failed to satisfy the requirements of the previous orders, as department did not adequately explain the reasons for departing from the requirement of involving the District Magistrates, particularly with regard to compliance with the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021.

(C) The Core Judicial Concern: Misuse of Police Powers and Systemic Failure

16. The order dated 27.11.2025 highlights the concern of this Court and thus observed that the central problem was not the establishment of the Commissionerate system *per se*, but rather the recurring misuse of police powers and the over-application of stringent provisions by the

police. However, the Court found that the affidavit and instructions filed by the Home Department failed to satisfy the requirements of the previous orders, as they did not adequately explain the reasons for departing from the requirement of involving the District Magistrates, particularly with regard to compliance with the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021, against street-level and petty offenders, while actual gangsters and organized crime syndicates- those involved in narcotics trade, financial frauds, land mafia activities, procurement of *benami* government contracts through sham companies, and white-collar criminals who harbour local offenders for ulterior motives- remained largely unaffected due to an absence of any systemic policy response.

17. The Court took serious note of several systemic failures, including: the absence of any State policy for the expeditious disposal of cases against habitual gangsters; the lack of any mechanism to secure witness production; the absence of a fair and effective witness protection scheme; the failure to ensure timely production of prosecution witnesses before the court; the failure to sensitize District Government Counsels to provide meaningful assistance to the Court; and, most significantly, the absence of any programme to fix accountability on the police beyond old-fashioned departmental inquiries, which were typically initiated only against officers of the rank of Inspector and below.

18. Further, the Court observed that criminal trials against individuals with two or more than two dozen FIRs had made no substantial progress even after two to three decades of the filing of a charge-sheet. Bail conditions were routinely flouted by gangsters and resourceful persons engaged in organized crime, as the JD (Prosecution) and the DGCs were not effectively discharging their duties to secure their presence before the court on every date. Repetitive adjournment applications filed on behalf of accused persons are frequently allowed, while prosecutors neither objected to such adjournments nor pursued cancellation of bail. No mechanism or State programme existed to regulate the affairs of prosecutors or to fix their accountability.

(D) Judicial Observations on Administrative Ethics and Rule of Law

19. In a passage of considerable significance, this Court observed that even the most well-intentioned and ostensibly noble ideas are liable to miscarry when placed in the hands of poor administrators — those who are inadequately trained and lacking in institutional competence, yet highly ambitious and adept at maneuvering constitutional authorities. The Court identified a fundamental flaw in traditional bureaucratic ethics: its tendency to treat morality as something external to the day-to-day practice of administration, rather than as an integral component of decision-making. The Court emphasized that discretion conferred on civil servants by the legislature is intended to be exercised strictly in furtherance of the policy and object underlying the statute, and that the policy and purpose of any gazette notification must be ascertained by construing the parent enactment- in this case, the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. However, the Court found that the affidavit and instructions filed by the Home Department failed to satisfy the requirements of the previous orders, as they did not adequately explain the reasons for departing from the requirement of involving the District Magistrates, particularly with regard to compliance with the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021- as a whole.

20. The Court further reminded the Home Department that selective investigation and selective prosecution are antithetical to the rule of law and inevitably corrode public trust in governance, and that at the core of a democratic State, lies the premise that every citizen is not only equal before the law but equally entitled to its protection and equally significant in the eyes of a welfare State².

III- DIRECTIONS ISSUED BY THE ORDER DATED 27.11.2025:

21. In view of the foregoing deliberations, this Court issued the following specific directions:

² Excerpt from 'The Struggle for Recognition: The Moral Grammar of Social Conflicts', by Axel Honneth

(i) Again an affidavit was directed to be filed by an officer not below the rank of Secretary, Home Department, Government of Uttar Pradesh, with the prior approval of the competent authority. The affidavit was required to contain; **(a)** empirical data gathered from the districts and/or Commissionerates on the basis of which the Department has arrived at its subjective satisfaction that the exclusion of the District Magistrate from the joint meeting under Rule 5(3)(a) of the Rules was justified and was in the interest of the State and its citizens; **(b)** details of any data, comparative analysis, or study conducted by the Department to substantiate that the crime rate has decreased in Commissionerate districts subsequent to the introduction of the system, as compared to non-Commissionerate districts; and **(c)** details of any training programmes imparted to police officers assigned to discharge functions earlier performed by District Magistrates, along with particulars of any study demonstrating whether the Home Department has successfully achieved its intended objective.

(ii) The Director General of Police (Prosecution) was directed to furnish comprehensive district-wise data for the last ten years in respect of cases under the U.P. Gangsters Act, including: the number of cases registered; the number of charge-sheets filed; the number of convictions secured; and the number of acquittals of charge-sheeted accused persons- with a comparative analysis *vis-à-vis* non-Commissionerate districts. The report was also required to disclose systemic reforms and policy decisions, if any, taken by the Home Department to improve police working insofar as the approval of the gang chart was concerned.

(iii) The Home Department was further directed to furnish details of: **(a)** the names and number of officers- SSP/SP/DCP and above in police, and Joint Director (Prosecution) and DGC in the prosecution department- against whom disciplinary or administrative action has been taken during the last ten years for acts of corruption, inefficiency, negligence, procedural lapses, misuse of power, or violation of guidelines in matters pertaining to the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021 or in any ancillary issue; and **(b)** the nature of

such action, including warnings, adverse entries, suspensions, transfers, departmental inquiries, or any other penalties imposed.

22. Copies of the order were directed to be transmitted to the Additional Chief Secretary (Home), the Director General of Police (Prosecution), and the Chief Secretary, Government of Uttar Pradesh.

23. Detailed analysis of the order dated 09.01.2026 clarifies this Court's response to the affidavit filed by the Secretary (Home) in purported compliance with the extensive directions issued by the order dated 27.11.2025 (supra). Upon careful perusal, this Court found that the compliance was wholly inadequate and unsatisfactory, and the order dated 09.01.2026 reflects the Court's deepening concern at the conduct of the Home Department. Following are the further observations of the Court on the supplementary affidavit filed by the Secretary (Home).

(A) Inadequacy of the Affidavit filed by the Secretary (Home)

23.1 This Court in its order dated 09.01.2026, noted again that the affidavit filed by the Secretary (Home) highlighted the purported "noble objective" behind adopting the Commissionerate system- described as a national best practice on the lines of Delhi, Mumbai, Bengaluru, and Hyderabad- with the stated aim of achieving zero tolerance towards crime and criminals, but it failed entirely to address the specific, pointed requirements set out in paragraphs 10 and 11 of the order dated 27.11.2025 (supra) in letter and spirit. The Court made it clear that it has no quarrel with the Commissionerate system as an administrative model, as it had stated earlier; however, the failure to furnish empirical data, comparative crime statistics, training programme details, and accountability records- as specifically directed- rendered the compliance affidavit wholly inadequate.

(B) Judicial Observations on the Conduct of the Home Department

23.2 Upon perusal of the affidavits filed on behalf of the Home Department, this Court observed, *prima facie*, that the officers concerned has either failed to advert to the orders rendered by this Court or has approached the matter in a lackadaisical manner. This approach, the Court

found, seemingly proceeded on the erroneous assumption that the power to issue notifications, being vested in the executive branch, may be exercised without due application of mind, by resorting to unfettered discretion and without examining the consequential effects thereof.

23.3 The Court also reminded the Home Department that courts have consistently reasserted their right to intervene in cases where administrative decisions are irrational, abusive, and arbitrary, and that the judiciary, rather than acting as guarantors of the rule of law by outsourcing this obligation to the executive branch, has an independent duty to uphold it. While the Court refrained from delving into the reasons underlying the conduct of the officers concerned, it unequivocally stated that it could not remain a mute spectator and would not hesitate to exercise the powers vested in it in the interest of the citizens of the State and for upholding the sanctity and authority of the judicial process.

(C) Issuance of Show-Cause Notice to the Additional Chief Secretary (Home)

23.4 In view of the repeated failure of the Home Department to furnish specific and pointed details sought through successive orders, this Court issued a show-cause notice to the Additional Chief Secretary (Home), requiring him to explain the reasons for, and disclose the legal impediments, if any, which has resulted in the Home Department's persistent non-compliance.

IV- DIRECTION REGARDING THE DIRECTOR GENERAL OF POLICE (PROSECUTION):

23.5 The order also noted that compliance with paragraph 10.1 of the order dated 27.11.2025, requiring the Director General of Police (Prosecution) to furnish comprehensive district-wise data under the Gangsters Act for the last ten years, was still pending. Accordingly, the Director General of Police (Prosecution) was granted one week's time to comply with the said direction.

23.6 By order dated 26.02.2026, after hearing arguments of both sides to their conclusion, this Court perused the affidavit dated 10.03.2025 filed

by the then Commissioner of Police, Shri Ajay Kumar Mishra, and the affidavit dated 25.02.2026 filed by the incumbent Commissioner of Police, along with the enclosed true copies of the FIRs, charge-sheets, and the dossier pertaining to the accused Rajendra Tyagi and his daughter-in-law Lalita Tyagi. Upon perusal, this Court found, *prima facie*, that the then Commissioner of Police, Shri Ajay Kumar Mishra, appears to have misused and abused the authority vested in him for initiating proceedings against the applicants under the provisions of the U.P. Gangsters Act, 1986. A fair and reasonable opportunity of hearing was accordingly afforded to Shri Ajay Kumar Mishra to place his response, and the Government Advocate's office was directed to supply scanned copies of both affidavits enabling him to file response to the Court's observations forthwith.

V- SUMMARY OF THE AFFIDAVIT OF THE SECRETARY, HOME DEPARTMENT, GOVERNMENT OF UTTAR PRADESH:

(A) Policy Background and Promulgation of Rules, 2021

24. In view of the State's zero-tolerance policy towards crime and criminals and with the aim of taking effective action against organized criminals under the Act of 1986, the U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021 were promulgated vide Notification No. 5203/6 Po-9-2021-31(43)/2013 TC dated 27.12.2021. For strict compliance of these Rules, guidelines have been further issued by the Additional Chief Secretary, Home, vide Letter No. 1208/6-Po-9-22-31(43)/2013 TC dated 18.04.2022, with a direction to strictly follow the Rules, 2021.

(B) Justification for the Commissionerate System

25. The affidavit again reiterated that most major global and Indian metropolitan cities, including Delhi, Mumbai, Bengaluru, and Hyderabad, operate under the Commissionerate system as it is the established "National Best Practice" for urban policing. Reverting to or imposing District Magistrate oversight in these areas would be a retrograde step deviating from this proven national model.

26. The State Government has issued notifications under Section 20 of the Cr.P.C. appointing the Commissioner of Police as Executive Magistrate and conferring upon him all the powers of the District Magistrate under the Cr.P.C., 1973 and 14 other statutes, including the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986. Consequently, the Commissioner of Police exercises all powers previously held by the District Magistrate, including the power of attachment of property in Police Commissionerate districts. Based on this notification, Rule 5(3)(a) of the Rules provides for a joint meeting between the Commissioner of Police and the Deputy Commissioner of Police instead of the District Magistrate in Commissionerate districts.

27. It is further reiterated that the transition to the Commissionerate system represents a shift towards specialized urban policing and that the integration of DM powers into the office of the Police Commissioner is a constitutionally and legally valid exercise intended to bring precision and accountability to the fight against organized crime. The nature of crime in metropolitan cities like Lucknow, Noida, and Kanpur has evolved beyond traditional local disputes into real estate syndicates, shell companies (benami transactions), and complex cyber-extortion. The expertise required to dismantle such networks- digital forensics, financial auditing, and criminal intelligence- resides exclusively within the specialized wings of the Police Department such as the EOW and Cyber Cell, and not within the Revenue Administration. Hence, oversight by a Police Commissioner ensures that the Gang Chart is vetted by an authority with full technical understanding of modern gangsterism.

28. The affidavit also addresses the issue of accountability. It is submitted that in the traditional dual system, when an organized crime network thrives, the Police blame the Magistracy for lack of approvals while the Magistracy blames the Police for poor investigation. Under the Commissionerate system, the Police Commissioner is solely accountable for both prevention and prosecution of gangs, creating a "single point of accountability" as sought by the Hon'ble Court in Para 7 of its order. Additionally, the State has institutionalized a "*Post-Acquittal Audit*"

mechanism whereby every acquittal in a Gangsters Act case is reviewed to determine whether it resulted from procedural negligence at the Gang Chart approval stage.

(C) Measures Taken to Prevent Misuse

29. The affidavit details a series of administrative measures taken by the State to prevent misuse of the Act of 1986 and to ensure strict compliance with Rules, 2021.

30. The Rules, 2021 were notified with the specific aim of curbing the possibilities of misuse of the Act of 1986. Further letters were issued by the Additional Director General of Police, Crime, vide Letter No. DG-7 S 14-(09)/2021 dated 25.04.2022, and by the Director General of Police, U.P., vide Letter No. DG 73-14-(09)/2021 dated 02.06.2022. DG Circular No. 06/2023 dated 14.02.2023 was also issued to all Commissioners of Police and Senior Superintendents of Police/Superintendents of Police for compliance of Rules, 2021.

31. When it came to the notice of the Government that the instructions have not been strictly followed and that officers are negligent in preparing gang charts, directions for strict compliance were issued to all Police Commissioners, District Magistrates, and Senior Superintendents of Police/Superintendents of Police vide Government Order No. 3421/Ch-Pu-9-22-31(43)/2013 TC dated 24.07.2023, with a further direction that future negligence would entail personal responsibility of the concerned officers.

32. Thereafter, vide Government Order No. 4705/Chh-Po-9-23-31(43)/2013 TC dated 21.01.2024, the following specific directions were issued to all concerned officers:

(a) Gang charts shall not be approved summarily but only after due discussion in a joint meeting of the District Magistrate/Commissioner of Police and the Senior Superintendent/Superintendent of Police.

(b) Rule 8(3) of the Rules shall necessarily be complied with, requiring specific mention of the latest status of cases, convictions, and related proceedings against gang members.

(c) The Nodal Officer (Additional Superintendent of Police) shall record his satisfaction in clear words under Rule 16(1) of the Rules.

(d) Under Rule 16(2), the Senior Superintendent/Superintendent of Police shall thoroughly analyze the Nodal Officer's recommendation and forward the gang chart with recorded satisfaction to the District Magistrate or Commissioner of Police for approval.

(e) Signatures on gang charts bearing pre-printed rubber stamps are strictly prohibited under Rule 17(2); approval shall be recorded only after proper independent application of mind.

(f) Rule 20(3) shall be strictly complied with; all investigation documents must be examined by the concerned Prosecution Officer, and any illegality or irregularity must be rectified before forwarding to the concerned Police Officer.

(D) Empirical Data Supporting the Commissionerate System

33. The affidavit places on record empirical data from the period 25.03.2022 to 30.11.2025 to demonstrate the superior efficiency of the Commissionerate system in targeting organized crime.

34. In respect of enforcement action, the Commissionerate system recorded action against an average of 93 mafia members as against only 36 in non-Commissionerate districts, reflecting 258% higher enforcement in Commissionerate districts. In respect of asset seizure efficiency, the average value of property seized in Commissionerate districts was approximately Rs. 1,024,991,730/- which is 61% higher than the non-Commissionerate district average of Rs. 637,425,007/-.

35. A comparative table of gang chart approvals and court objections further demonstrates the superiority of the Commissionerate system. Out of 1,685 registered cases in Commissionerate districts, the Hon'ble Courts raised objections in only 24 cases, a rate of approximately 1.42 per 100 FIRs, as compared to 221 objections in 10,832 cases in non-Commissionerate districts, a rate of approximately 2.04 per 100 FIRs. This data demonstrates that greater due diligence is exercised in the Commissionerate system at the gang chart approval stage.

36. Comparative crime data for the period 2017–2020 (pre-Commissionerate) and 2021–2024 (post-Commissionerate) also shows a significant quantitative decrease in major crimes in the concerned Commissionerate districts. Furthermore, Police Commissionerates have demonstrated a more focused approach towards cyber-related crimes, as reflected in the significant increase in FIR registrations under the IT Act, indicating greater awareness and enforcement capacity.

(E) Training of Police Officers as Executive Magistrates

37. To ensure that police officers effectively discharge the functions previously handled by District Magistrates, extensive training has been imparted across all Commissionerate districts. The Lucknow Commissionerate conducted 162 workshops and programmes training officers from ACP to Commissioner rank on the Executive Magistrate's powers under the Cr.P.C., 1973, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Gangsters Act. Gautam Buddha Nagar organised 119 workshops focusing on legal provisions and the 14 specific Acts mentioned in the Commissionerate notification. Agra held specific training sessions on multiple dates between 10.12.2022 and 18.01.2025, and Prayagraj conducted workshops led by the Joint Director of Prosecution to provide legal and procedural training to gazetted officers.

38. A five-day special online orientation programme was also organized by the Judicial Training and Research Institute, U.P., Lucknow, from 22 October 2024 to 28 October 2024 for District Magistrates, Police Commissioners, Senior Superintendents of Police, and Superintendents of Police across the State. The programme covered preparation of gang charts, rules and procedures in the light of case laws, attachment and release of property under the Act, 1986, and open house sessions. In this programme, the officers were also made aware of the instructions issued by the Hon'ble High Court regarding preparation of gang charts.

39. Various judgments of the Hon'ble High Court were referred to during the programme, including; *(i) Virendra Kasaudhan v. State of*

*U.P.*³, *(ii) Narender Kumar v. State of U.P.*⁴, *(iii) Jaydeep Nishad v. State of U.P.*⁵, and six other reported judgments of the High Court.

40. The key points emphasized during the programme were that competent authorities must clearly record their satisfaction in writing under Rule 16 and not merely by affixing a pre-printed typed satisfaction; that such satisfaction must reflect application of mind on both the Gang Chart and all attached documents; that the date of filing of the charge sheet must be mentioned in Column 6 of the gang chart; that minutes of the joint meeting under Rule 5(3)(a) of the Rules must be maintained in a register; that competent authorities must date their signatures; that the approving authority must verify proper recording of satisfaction by the Nodal Officer and District Police Head; and that before invoking the Act, the competent authorities must record their satisfaction that the accused falls within the definition of "gangster" under Section 2(c) of the Act of 1986, with such satisfaction recorded in the minutes of the joint meeting.

(F) Disciplinary and Administrative Actions Taken

41. The affidavit discloses actions taken during the last 10 years against errant officials of the Police Department and the Prosecution Department under the U.P. Gangsters Act.

42. In the Police Department, Shri Anand Dev, Retd. IPS (2006), was suspended on 12.11.2020 following the killing of eight police personnel by the Vikas Dubey gang for allegedly providing protection to the accused; departmental proceedings were concluded on 11.05.2023 with a formal caution, besides him departmental proceedings have been commenced against three other Indian Police Services Officers for different reasons, including lack of supervision, and involvements of activities not commensurate with the office of SSP.

43. In the Prosecution Department, a Senior Prosecution Officer in Barabanki, faced departmental proceedings for indifference and negligence in the discharge of prosecution duties in a Gangsters Act case.

³ 2023 SCC OnLine All 1431

⁴ 2023 SCC OnLine All 3979

⁵ 2024 SCC OnLine All 445

Two Senior Prosecution Officers of Gorakhpur were found *prima- facie* guilty of illegal gratification (bribery) and were suspended; their departmental proceedings are currently in progress. A Joint Director (Prosecution) in Baghpat received a formal warning for the entry of false information in a Gang Chart and a second warning for procedural delays in submitting Gang Charts for legal opinion.

(G) Constitutional Validity and Further Government Orders

44. The affidavit raises a constitutional argument, submitting that the Hon'ble Supreme Court has historically recognized the legislature's wisdom in deciding the best administrative structure for a given area. Once a district is declared a Metropolitan Area, the vesting of DM powers in the Commissioner of Police is a statutory consequence of the Cr.P.C., and the Court's interference with the "Joint Meeting" requirement may infringe upon the executive's policy-making domain.

45. Further detailed guidelines were issued vide Office Memorandum No.4080/Six-Pu-9-2024-1842633 dated 24.09.2024, and a comprehensive checklist of 29 points along with instructions for strict action against negligent officers was issued vide Office Memorandum No. 4619/6-50-9-2024-1867437 dated 02.12.2024.

VI- SUMMARY OF THE AFFIDAVIT OF SHRI AJAY MISHRA, INSPECTOR GENERAL OF POLICE, PRAYAGRAJ RANGE:

46. The affidavit filed by the Inspector General of Police, Prayagraj Range, records that he had earlier filed an affidavit dated 07.03.2025 before this Court in his capacity as Commissioner of Police, Ghaziabad. The present affidavit relates to the gang chart approved by him in Case Crime No. 101 of 2023, under Section 2/3 of the Act of 1986, registered at Police Station Nandgram, District Ghaziabad. At the outset, the deponent expressed his unshakable faith in the rule of law and unconditional commitment to it under all circumstances.

47. And further records that, while exercising his legal powers as Commissioner of Police, Ghaziabad, applied his independent mind on the basis of all facts and evidence available on record and approved the gang

chart after due discussion with the Deputy Commissioner of Police, City Zone Ghaziabad, in a joint meeting held as per Sub-Rule 3 of Rule 5 of the Rules.

48. To initiate proceedings under the Act, the In-charge Inspector of Police Station Nandgram, District Ghaziabad, prepared a gang chart detailing the criminal activities of the gang. The applicant Rajendra Tyagi, his son Deepak Tyagi and his daughter-in-law Lalita Tyagi are stated to be members of the gang who were indulging in anti-social activities with the object of disturbing public order and gaining undue temporal, pecuniary, material, or other advantage for themselves. Criminal cases were lodged against them for offences punishable under Chapters XVII and XXII of the Indian Penal Code, 1860. They are alleged to be gangsters who abet or assist in the gang's activities as defined under clause (b) of Section 2 of the Act of 1986.

49. The gang chart rests on two base cases **(i)** Case Crime No. 912 of 2022- registered under Sections 406 and 506 of the IPC at Police Station Nandgram, District Ghaziabad. As per the FIR dated 02.09.2022, lodged by informant Pankaj Tyagi, the accused applicants took money from the informant and his business partners on the assurance of returning it, subsequently failed to do so, and with dishonest intent induced the informant into executing a registered agreement of sale in respect of their property, but never executed the sale deed. During the investigation, Section 420 IPC was also added, **(ii)** Case Crime No. 703 of 2021- registered under Sections 406, 504, and 506 of the IPC at Police Station Chandpur, District Bijnor. In this case, the accused induced the informant and accrued money from him; when pressurised, they agreed to pay Rs. 32 lakhs within 45 days but failed to do so, resulting in the aforesaid FIR. A settlement document between the informant and Deepak Tyagi, the other gang member, establishing the transaction of movable property, was also collected during the investigation, and the charge sheet was filed under Sections 406, 504, and 506 IPC.

50. The officer has perused the copies of the FIRs and charge sheets relating to the base cases, along with the gang chart, as required under

Rule 10 of the Rules. The officer has also examined the current status of the trial of the base cases and the proceedings initiated under Section 14(1) of the Act of 1986. Further, the list of criminal activities of the gang leader and members, prepared by the SHO in Form No. 3 and annexed to the dossier, has been scrutinized. The particulars of the offences committed for pecuniary, materialistic, and temporal gains have been thoroughly verified and matched with the Case Diary records in accordance with the procedure prescribed under Rule 12 of the Rules, 2021.

51. The gang chart passed through the following chain of approval, with each officer independently applying his mind at every stage:

51.1 The SHO, after thoroughly matching and confirming all forms, forwarded the gang chart to the Assistant Commissioner of Police (ACP), Nandgram, with a noting that the applicants were involved in fraud and forgery worth crores of rupees under the garb of providing plots/land in District Ghaziabad, and that their criminal activities fall under Section 2(b) of the Act, 1986.

51.2 The ACP, after ensuring the correctness and reliability of the entries and facts as required under Rule 12(5) of the Rules, 2021, forwarded the gang chart to the Additional Deputy Commissioner of Police (Crime)/Nodal Officer for his perusal and independent application of mind.

51.3 The Nodal Officer, after independently applying his mind and being satisfied that there was just and satisfactory basis to proceed further, forwarded the gang chart with his approval as per Rule 16(1) of the Rules, 2021.

51.4 The Deputy Commissioner of Police (DCP), City District Ghaziabad, upon receiving the gang chart with the Nodal Officer's clear recommendation, thoroughly analyzed it. Only after confirming that all statutory formalities had been fulfilled and that there existed a legal basis for action, did the DCP forward the gang chart to the Commissioner of Police, Ghaziabad, after applying his independent mind as per Rule 16(2) of the Rules, 2021.

51.5 Finally, the Commissioner of Police, after thoroughly perusing all facts and satisfying himself that the basis for action existed, approved the gang chart after applying his independent mind in a joint discussion with the DCP concerned, in accordance with Rule 16(3) of the Rules, 2021.

VII- PROCEEDINGS ON SHOW CAUSE NOTICE TO ACS (HOME):

52. Aggrieved by the order dated 09.01.2026, whereby a show cause notice was issued to the ACS (Home), requiring him to explain the reasons and disclose the legal impediments, if any, for the failure to furnish the specific and pointed details, sought by this Court, preferred an SLP (Crl.) before the Supreme Court. The Supreme Court vide order dated 03.02.2026 disposed of the SLP (Crl.) Nos. 1714-1715/2026 by observing that in event the authorities fail to furnish the requisite details, as sought by the High Court, it is the exclusive prerogative of the High Court to proceed to decide the main case, including the legality of the notification dated 26.11.2022 and permitted the applicant authorities to file one more personal affidavit, if so advised, within a period of one week from date of the order, and disposed of the SLP (Crl.) (supra) by keeping the para-9 of the impugned order dated 09.01.2026 in abeyance. In effect, the requirement of filing reply to the show cause notice was dispensed with.

VIII- SUBMISSIONS ON BEHALF OF ADDITIONAL ADVOCATE GENERAL:

53. Shri Manish Goel, learned Additional Advocate General assisted by Shri Roopak Chaubey, learned AGA-I drew attention to Section 20 of the Code of Criminal Procedure, 1973, to establish that appointment of Executive Magistrates and the District Magistrate is a matter of executive discretion vested solely in the State Government and is not subject to judicial interference in the absence of a challenge to the relevant notification or enactment.

54. He has further placed reliance upon the notification dated 26.11.2022, whereby the Assistant Commissioner of Police, Additional Deputy Commissioner of Police, Deputy Commissioner of Police,

Additional Commissioner of Police, Joint Commissioner of Police, and Commissioner of Police of the metropolitan area of Ghaziabad have been appointed as Executive Magistrates. Further, all Additional Commissioners of Police, Joint Commissioners of Police, and the Commissioner of Police have been appointed as Additional District Magistrate for Ghaziabad and have been conferred the powers of the District Magistrate under the Code of Criminal Procedure in respect of 14 enactments as mentioned in the notification.

55. He next submitted that in the present case, neither a challenge has been laid to the notification dated 26.11.2022 nor has the validity of Section 20 of the Cr.P.C. been put to challenge. The law presumes that every notification is a valid piece of law and that the provisions of an enactment are duly valid unless and until declared to be *ultra vires* Part III of the Constitution of India or *ultra vires* the competence of the concerned Legislature. In the absence of such a challenge, the legislative wisdom cannot be put to question by the applicant. Dealing with Section 20 of the Cr.P.C., categorical pronouncements have been delivered by the Supreme Court holding that the Court cannot enlarge the scope of the legislation or its intention when the language of the statute is plain and unambiguous. The Court should avoid a construction which would reduce the legislation to futility, and every statute is to be interpreted without any violence to its language.

56. The learned Additional Advocate General relied upon; *(i) A.N. Roy, Commissioner of Police v. Suresh Sham Singh*⁶, *(ii) State of U.P. v. Kaushailiya*⁷, *(iii) Balamurugan v. State rep. by the Inspector of Police (Law and Order) and others*⁸, *(iv) Devi v. Executive Magistrate-cum-Deputy Commissioner of Police and another*⁹.

57. The State submits that the District Magistrate is not a *persona designata*. This position has been settled by various pronouncements of the Supreme Court, this Court, and different High Courts across the

⁶ 2006 (5) SCC 745

⁷ 1963 SCC OnLine SC 159

⁸ 2016 SCC Online Mad. 23460

⁹ 2020 SCC Online Mad. 2706

country. The Commissioner of Police for the purpose of certain enactments, who has been given the power of a District Magistrate by virtue of Section 20 of the Cr.P.C., will be competent authority for the purposes of such enactments inasmuch as the power vests in the Governor to issue notification in the name of the State Government, conferring such powers upon the Commissioner. Therefore, a Commissioner who is to discharge duties by virtue of Section 20 Cr.P.C. will hold good as a District Magistrate for the purposes of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986. This position was long ago settled by a Constitution Bench of the Supreme Court in *(i) Central Talkies Ltd. v. Dwarka Prasad*¹⁰, *(ii) LIC v. Nandini J. Shah*¹¹, *(iii) Radha Kishan Yadav v. State of U.P. and others*¹², and *(iv) Babu Lal Jain v. District Judge, Bikaner*¹³.

58. He next submits that the Commissioner of Police exercises the powers of the District Magistrate and holds the joint meeting with the Deputy Commissioner of Police of the concerned Zone. There is no illegality in the same. The inclusion or exclusion and the classification is based on relevant criteria, inasmuch as Section 8 of the Cr.P.C. provides for the declaration of a metropolitan area, and once a metropolitan area is declared, there is a valid classification for invoking Section 20 of the Cr.P.C. There thus exists a valid basis for excluding the District Magistrate of the district in metropolitan areas for the purposes of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 and the other 13 Acts. The wisdom of the State Government in this regard is not open for review in a petition under Section 482 Cr.P.C. and can only be reviewed in judicial review proceedings under Article 226 of the Constitution of India, by laying a challenge to the notification as well as to Sections 8 and 20 of the Cr.P.C.

¹⁰ 1961 SCC OnLine SC 125

¹¹ 2018 (15) SCC 356

¹² 2021 SCC Online All. 822

¹³ 2016 SCC Online Raj. 8823

IX- FINDINGS AND OBSERVATIONS OF THE COURT ON THE BASIS OF MATERIAL ON RECORD AND ARGUMENTS ADVANCED:

59. On the last date of hearing, Shri Anoop Trivedi, learned Additional Advocate General, assisted by Shri Paritosh Malviya, learned A.G.A.-I, appeared and submitted that the constitutional validity of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 and the Rules framed thereunder is under challenge before a three-Judge Bench of the Supreme Court in *Rameez Nemat and Another v. State of Uttar Pradesh and Others*¹⁴, *Irfan Solanki v. State of Uttar Pradesh*¹⁵, and other connected matters. He further submitted that the Supreme Court has taken cognizance of all issues connected therewith and, therefore, this Court may refrain from undertaking an examination of the legality of the Government Order dated 26.11.2022. According to him, the issues raised in the present petition, as well as those that have emerged during the course of the proceedings, may appropriately be decided after the Supreme Court finally adjudicates upon the validity of the Gangsters Act.

60. However, the 3-judge Bench of the Supreme Court has granted liberty to this Court to examine and decide the legality of the notification dated 26.11.2022. Accordingly, this Court, in its wisdom, may undertake such examination. Nevertheless, since the larger issues concerning the constitutional validity of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, and the Rules framed thereunder are presently under consideration before the Supreme Court, the outcome thereof is likely to have a direct bearing on the matters involved in the present petition. Therefore, this Court deems it appropriate to refrain from rendering a final determination on the issues raised in the present petition, but there are certain issues which engaged the attention of the Court during the court proceedings and needs deliberation in the interest of the State and Public Policy.

¹⁴ Writ Petition (CrI.) No. 225 of 2025

¹⁵ Writ Petition (CrI.) No. 84 of 2026

61. Uttar Pradesh, by virtue of its demographic magnitude and political significance, has historically been a crucible of political hegemony, driven by the feudal mindset of politicians and bureaucrats. It has long reduced constitutional governance to an instrument of personal dominion rather than public service. The administrative machinery of the State has, over successive regimes, been susceptible to deep political penetration. This court has no hesitation in observing that transfers, postings, and promotions of officers have frequently been instruments of political patronage rather than merit-based governance, barring a few. Officers perceived as loyalists are rewarded with preferred postings- urban Commissionerates, lucrative districts- while those demonstrating independence are transferred punitively to inconsequential assignments, a well-known fact.

62. A systemic and deeply entrenched culture has emerged wherein a considerable section of the officer cadre treats the rule of law not as a constitutional obligation but as an operational inconvenience. Arrests are effected without due process, many times FIRs are registered or suppressed with ulterior motives, and preventive detention provisions are invoked arbitrarily, at the whims of officers. The procedural safeguards under the Code of Criminal Procedure, and now the Bharatiya Nagarik Suraksha Sanhita, are routinely bypassed. Judicial orders are complied with in form but defeated in substance.

63. The vertical loyalty of officers runs not toward the Constitution but toward the ruling dispensation. Field officers, acutely conscious of the transfer-posting economy, calibrate their conduct to satisfy political superiors. Encounter killings, selective crackdowns, and targeted use of the Gangsters Act against inconvenient individuals have periodically attracted judicial notice. The High Court has, on numerous occasions, deprecated this tendency and reminded officers that their posts are constitutional in character and must not be reduced to instruments of individual convenience.

64. It is apposite to recall that the police officer, who was entrusted with the supervision of the entire operation in the Bikru massacre- wherein a gangster and his associates ambushed a police team that had arrived to effect his arrest, brutally killing eight policemen, including a Deputy Superintendent of Police- was, upon conclusion of the departmental enquiry, visited with nothing more than a ‘formal caution’. This Court finds it difficult to reconcile such a disproportionately lenient outcome with the gravity of the supervisory failure involved, and it is precisely this culture of institutional impunity that emboldens those in authority to remain unaccountable, perpetuating the feudal and politically patronised administrative ecosystem that this Court has adverted to hereinabove.

65. With deep constitutional concern, this Court concludes that the Home Secretary, as the senior-most bureaucratic authority in the Home Department, occupies a pivotal position in this ecosystem. Rather than functioning as an independent constitutional authority charged with implementing the government's vision, policies, and programmes through impartial executive action. Certain officers who rose to the post of Home Secretary have, in practice, served as conduits for self-serving interests. Recommendations on postings, approvals of departmental proceedings, and responses to court proceedings have, in such instances, reflected considerations driven by personal or extrinsic calculations rather than dispassionate and constitutionally informed administrative judgment. This fundamentally compromises the institutional integrity that the position demands.

66. It is within this precise context that this Court's observation- that the Home Department must independently evaluate the suitability and operational effectiveness of its officers- carries profound constitutional significance. It is a solemn judicial reminder that constitutional governance cannot be held hostage to individual expediency or an individual's convenience, and that the State apparatus must remain answerable to the law and to the Constitution, and not to any ruling establishment.

X- FINDINGS ON THE MERITS OF THE PRESENT CASE UPON CONSIDERATION OF RECORD AND SUBMISSIONS:

67. On the merits of the present case, it's established that the proceedings under the Gangsters Act have been invoked on the basis of two FIRs: (i) FIR No. 912 of 2022, registered under Sections 406 and 506 of the Indian Penal Code at P.S. Nandgram, District Ghaziabad, pursuant to the FIR dated 02.09.2022 lodged by informant Pankaj Tyagi; and (ii) FIR No. 703 of 2021, registered under Sections 406, 504, and 506 of the Indian Penal Code at P.S. Chandpur, District Bijnor, lodged by informant Sapna Agarwal.

68. In FIR No.912 of 2022 (supra), there are two accused- Rajendra Tyagi and Deepak Tyagi, whereas in FIR No.703 of 2021 (supra), there are four accused- Deepak Tyagi, Dinesh alias Babli Tyagi, Rajendra Tyagi and Lalita Tyagi.

69. Admittedly, both FIRs pertain to financial transactions and payment of money in connection with the purchase of land, and the accused also issued certain cheques in favour of the complainant. Accused Rajendra Tyagi, Deepak Tyagi, and Lalita Tyagi are family members. Lalita Tyagi is the wife of Deepak Tyagi, who was aged about 35 years at the time of his arrest. On perusal of the entire charge-sheet, not a single averment has been made particularly against accused Lalita Tyagi, or cumulatively against the other two accused, which could satisfy the ingredients of Section 2 of the Gangsters Act. The accused may have committed offences of cheating and forgery; however, the same does not amount to, and cannot be construed as, running an organised gang.

70. The activities and the material placed on record do not satisfy the ingredients of Section 2(b) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. There is no material on record which could establish the use of violence, intimidation, coercion, or any other means with the object of disturbing public order or of gaining any undue temporal or pecuniary advantage.

71. This Court, vide order dated 03.03.2025, directed the Commissioner of Police, Ghaziabad, to place on record the material available with the Commissioner of Police and the Deputy Commissioner of Police before approving the gang-chart, and the methodology adopted to quantify the alleged earnings of the gang. No such material has been produced before this Court, except bald assertions. On the basis of mere assertions, the provisions of the Gangsters Act cannot be invoked.

72. The record suggest, the incumbent Commissioner of Police has not followed the directions issued by the Supreme Court in *Gorakhnath Mishra v. State of Uttar Pradesh*¹⁶, and this Court in *Vinay Kumar Gupta (supra)* while approving the gang-chart. The guidelines issued vide Office Memorandum No. 4080/Six-Pu-9-2024-1842633 dated 24.09.2024 has also not been adhered to, the charge-sheet suggests.

73. There is yet another aspect of the present case that warrants serious consideration, namely, the arrest of co-accused Lalita Tyagi- a young lady aged about 35 years, a homemaker- on the day immediately following the registration of the impugned FIR. No material whatsoever has been placed on record to justify or sustain her arrest, and on the face of it, the said arrest was patently illegal, arbitrary, and wholly unwarranted in law. The Investigating Officer exercised the power of arrest in a manifestly unjustified and high-handed manner, betraying a complete non-application of mind to the settled legal principles governing the necessity of arrest.

74. The Commissioner of Police has failed to supervise the investigation; in such nature of cases, all directions are flowed from the office of the Commissioner of Police. Government Order No. 3421/Ch-Pu-9-22-31(43)/2013 TC dated 24.07.2023, issued by the Additional Chief Secretary (Home), records that the officer concerned shall be personally responsible for dereliction of duty and misuse of authority. Office Memorandum No. 4619/6-50-9-2024-1867437 dated 02.12.2024 records a com-

¹⁶ SLP(Crl) No. 007453 / 2025; Diary No. 2673 of 2023

prehensive checklist of 29 points, along with instructions for strict action against negligent officers.

75. It has been argued that the officer whose conduct has been called into question in the present case is known for a volatile and unpredictable temperament, and that he frequently reacts impulsively in professional situations without due application of mind. It has further been submitted that he has consistently displayed a maverick and arbitrary approach to administration, routinely disregarding established norms, procedures, and the rule of law, while exhibiting a marked tendency to abuse the authority vested in him by virtue of his office. It was further submitted that during his posting as Commissioner of Police, Ghaziabad, his conduct has, on several occasions, borne the unmistakable character of vindictiveness and high-handedness, which has raised grave concerns regarding his fairness, objectivity, and fitness for positions of responsibility that demand balanced judgment, institutional restraint, and scrupulous adherence to law.

76. However, this Court is of the considered view that it cannot examine or assess the behavioural attributes and officer-like qualities of an individual officer unless and until some concrete and credible material is placed before it. Moreover, judicial wisdom and institutional propriety restrain this Court from taking cognizance of, or placing reliance upon, unsubstantiated submissions advanced at the Bar. It is, therefore, for the Home Department, Government of Uttar Pradesh, to independently consider and evaluate the suitability and operational effectiveness of its officers insofar as field postings are concerned.

XI- ORDER:

77. In view of the aforesaid deliberations, the entire proceedings of Special Sessions Trial No. 3072 of 2023, titled State v. Rajendra Tyagi and Others, arising out of Case Crime No. 101 of 2023 under Sections 2/3 of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, registered at P.S. Nandgram, District Ghaziabad, and pending before the learned Additional Sessions Judge, Ghaziabad, are hereby quashed. The application is, accordingly, **allowed**.

78. Shri Ajay Kumar Mishra, the then Commissioner of Police, Ghaziabad, failed to exercise supervisory control over his subordinates, and the actions in question occurred under his authority and watch as Commissioner of Police, Ghaziabad. On account of the approval of proceedings under the Gangsters Act, 1986, a young lady aged about 35 years remained in judicial custody for approximately 80 days. The case neither satisfies the ingredients of the Act of 1986 nor fulfils the parameters justifying arrest.

79. Taking a lenient view and having regard to the future career prospects of the officer, this Court considers it just and appropriate to direct Shri Ajay Kumar Mishra, Inspector General of Police, Prayagraj, to remain vigilant and circumspect in the discharge of his official functions, befitting the responsibilities of a position that demands balanced judgment, institutional restraint, and scrupulous adherence to law.

80. This Court places on record its appreciation for the valuable assistance rendered by Shri Roopak Chaubey, learned A.G.A-I, and Shri Paritosh Malviya, learned A.G.A.-I.

June 03, 2026

Shafique

(Vinod Diwakar, J.)