



2026:AHC-LKO:63435

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 8680 of 2026

Zahid Ali

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy./Addl. Chief Secy.
Deptt. Of Home Lko. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Kunwar Bahadur Singh
Counsel for Respondent(s)	: G.A.

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Kunwar Bahadur Singh, learned counsel for the petitioner and Shri Ravi Srivastava, the learned A.G.A. representing the State of U.P./opposite parties.

2. The learned A.G.A. has filed a short counter affidavit, which is taken on record.

3. By means of the instant writ petition filed under Article 226 of the Constitution of India the petitioner has challenged the validity of an order dated 11.05.2026, passed by the District Magistrate, Gonda, in Case No. 342 of 2021, under Section 3(1) of the U.P. Control of Goondas Act, 1970 (which will hereinafter be referred to as 'the Goonda Act'), whereby the petitioner has been declared to be a Goonda and has been externed from the limits of District Gonda for a period of six months. The petitioner had challenged the aforesaid order by filing Appeal No. 895 of 2026, under Section 6 of the Goonda Act, which has been dismissed by means of an order dated 12.08.2026 passed by the Commissioner, Devi Patan Mandal, Gonda and the validity of the appellate order has also been challenged through this writ petition.

4. The impugned order dated 11.05.2026 passed by the District Magistrate, Gonda states that the Superintendent of Police, Gonda had submitted a report dated 29.10.2020 stating that the petitioner is a person of criminal nature. He is involved in the following two criminal cases: -

(I) Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC, Police Station Kotwali Nagar, District Gonda, lodged by one Shami Ahmad Hussain,

alleging that the petitioner and his accomplices entered the complainant's shop and assaulted, abused and threatened him. A charge-sheet was submitted in the aforesaid matter on 02.11.2010.

(II) Case Crime No. 430 of 2020, under Sections 147, 148, 323, 504, 506, 427, 336, 324, 188 IPC, Section 56 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897 lodged by one Ram Niranjana Tripathi, alleging that the petitioner, his brothers and other accomplices indulged in brick-battening on the house of the complainant. After investigation, a charge sheet was submitted on 13.09.2020 which makes a mention of Section 324 IPC also.

5. Besides the aforesaid two FIRs, a beat information report was also registered on 27.10.2020. The order states that the petitioner did not submit any reply to the show-cause notice issued to him. The Magistrate has recorded in the impugned order that the involvement of the appellant in the aforesaid two criminal cases in which charge-sheets have been submitted against him, coupled with the fact that in an inquiry, the beat information has been verified to be true, makes out a case for declaration of the petitioner as a Goonda.

6. The petitioner challenged the order dated 11.05.2026 passed by the District Magistrate, Gonda, by filing Appeal No. 895 of 2026, wherein he contended that he has already been acquitted in Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC by means of a judgment and order dated 26.08.2017, passed by the learned Chief Judicial Magistrate, Gonda. Now he is involved only in one criminal case arising out of Case Crime No. 430 of 2020, under Sections 147, 148, 323, 504, 506, 427, 336, 324, 188 IPC, Section 56 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897 which has been lodged because of political reasons.

7. Although a copy of the acquittal order dated 26.08.2017 was produced by the petitioner before the appellate authority and it finds a mention in the impugned order dated 12.08.2026 passed by the Commissioner, Devi Patan Mandal, Gonda, yet the Commissioner has recorded in the impugned order dated 12.08.2026 that from the material available on record, it is established that Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC and Case Crime No. 430 of 2020, under Sections 147, 148, 323, 504, 506, 427, 336, 324, 188 IPC, Section 56 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897 and a beat information report are pending against the petitioner, which has been verified in inquiry.

8. The State has filed a short counter affidavit wherein it has not been denied that the petitioner has been acquitted in Case Crime No. 905 of 2010 by means of the judgment and order dated 26.08.2017 passed by the Chief Judicial Magistrate, Gonda.

9. The word 'Goonda' is defined in Section 2(b) of the Goonda Act, as follows: -

(b) "Goonda" means a person who--

(i) either by himself or as a member or leader of a gang, habitually commits or attempts to commit, or abets the commission of an offence punishable under Section 153 or Section 153-B or Section 294 of the Indian Penal Code or Chapter XV, Chapter XVI, Chapter XVII or Chapter XXII of the said Code; or

(ii) has been convicted for an offence punishable under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or

(iii) has been convicted not less than thrice for an offence punishable under the U. P. Excise Act, 1910 or the Public Gambling Act, 1867 or Section 25, Section 27 or Section 29 of the Arms Act, 1959; or (iv) is generally reputed to be a person who is desperate and dangerous to the community; or

(v) has been habitually passing indecent remarks or teasing women or girls; or

(vi) is a tout."

10. In the case of **Rahul v. State of U.P.**: 2026 SCC OnLine All 21744, this Court has taken into consideration the precedents on the point of declaration of a person as a "goonda" in the cases of **Imran Alias Abdul Quddus Khan v. State of U.P.**: 1999 SCC OnLine All 1636, **Shankar Ji Shukla v. Ayuqt Allahabad Mandal**: 2005 SCC OnLine All 304, **Lalani Pandey @ Vijay Shankar Pandey v. State of U.P.**: 2010 SCC OnLine All 2411, **Govardhan v. State of U.P.**: 2023 SCC OnLine All 780, **Satendra v. State of U.P.**: 2026 SCC OnLine All 3129 and **Bharat Singh v. State of U.P.**: 2023:AHC:171107 and summarised the law laid down in the above mentioned judgments as follows: -

"(i) A person is termed as a 'goonda' if he is a habitual criminal. The word 'habitually' means 'repeatedly' or 'persistently'. 'Habit' means persistence in doing an act i.e. the commission of a number of similar acts. The word

'habitual' connotes some degree of frequency and continuity. Habitually requires a continuance and permanence of some tendency, something that has developed into a propensity, that is, present from day to day. Repeated, persistent and similar but not isolated, individual and dissimilar acts are necessary to justify an inference of habit.

(ii) One or two acts of the accused will not be sufficient to hold that he is habitually involved in commission of offences referred to in the Act.

(iii) There must be reasonable nexus between the act of the accused and its impact on the society. There must not be time gap between the proceedings under this Act and the acts said to be committed by the accused must show relation between the two.

(iv) It must be evident from the facts that by his confirmed habit, the petitioner is sure to commit more offences, if he is not externed.

(v) The legislation is preventive and not punitive. Its sole purpose is to protect the citizens from the habitual criminals and to secure future good behaviour and not to punish the innocent persons.

(vi) The Goonda Act is a powerful tool for the control and suppression of the 'Goondas', it should be used very sparingly in very clear cases of 'public disorder' or for the maintenance of 'public order'. The Act should not be allowed to be misused as a tool of oppression of innocent persons.

(vii) The Goonda Act is not intended to secure punishment of a person without his conviction for a substantial offence.

(viii) The intention of the Act is to afford protection to the public against hardened or habitual criminals or bullies or dangerous or desperate class who menace the security of a person or of property. The order of externment under the Act is required to be passed against persons who cannot readily be brought under the ordinary penal law and who cannot be convicted for the offences said to have been committed by them."

11. Although, the police report alleged involvement of the petitioner in two criminal cases arising out of Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC and Case Crime No. 430 of 2020, under Sections 147, 148, 323, 504, 506, 427, 336, 324, 188 IPC, Section 56 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897, it is undisputed that the petitioner has already been acquitted in Case Crime No.905 of 2010 by means of a judgment and order dated 26.08.2017 passed by the learned Chief Judicial Magistrate, Gonda. Involvement of a person in

a case instituted against him cannot be made a ground to declare him a Goonda after acquittal of the person in that case.

12. There is no allegation that the petitioner is a threat to maintenance of public order. The District Magistrate has declared the petitioner to be a Goonda merely on the basis of his involvement in two cases, in one of which he already stands acquitted long before. After acquittal of the petitioner in Case Crime No. 905 of 2010 under Sections 452, 323, 504, 506 IPC by means of a judgment and order dated 26.08.2017 passed by the learned Chief Judicial Magistrate, Gonda, now he is involved only in a single criminal case arising out of Case Crime No. 430 of 2020, under Sections 147, 148, 323, 504, 506, 427, 336, 324, 188 IPC, Section 56 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897 and he is facing prosecution for the solitary criminal case in which he is involved and it is not that the petitioner is not being dealt with under the ordinary penal law.

13. Although the petitioner did not file any objection before the District Magistrate bringing to his notice the fact of his acquittal in Case Crime No. 905 of 2010 and, therefore, the District Magistrate cannot be said to have erred in taking into consideration involvement of the petitioner in the aforesaid case, but the police must have had knowledge of the acquittal of the petitioner in Case Crime No. 905 of 2010 by means of a judgment and order dated 26.08.2017 passed by the learned Chief Judicial Magistrate, Gonda and, therefore, mention of involvement of the petitioner in the aforesaid case in the police report indicates that the police has deliberately portrayed a false picture of the petitioner before the District Magistrate.

14. Moreover, the petitioner had mentioned before the Commissioner Ayodhya Mandal that he has already been acquitted in Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC by means of a judgment and order dated 26.08.2017, passed by the learned Chief Judicial Magistrate, Gonda and now he is involved in a solitary criminal case. Although this fact finds mention in the impugned order passed by the Commissioner, yet the Commissioner has recorded her conclusion that the petitioner is involved in two criminal cases, including Case Crime No. 905 of 2010, under Sections 452, 323, 504, 506 IPC, in which he has already been acquitted. This indicates the Commissioner has not applied her mind to the grounds taken by the petitioner while deciding the appeal. The appellate order suffering from the vice of non-application of mind becomes unsustainable in law.

15. Involvement of the petitioner in a single criminal case instituted in the year 2020 lodged in the year 2020 does not establish that the petitioner

habitually commits or attempts to commit, or abets the commission of offences punishable under Section 153 or Section 153-B or Section 294 of the Indian Penal Code or Chapter XV, Chapter XVI, Chapter XVII or Chapter XXII of the said Code so as to justify his declaration as a Goonda under Section 2(b)(i) of the Act. There is a long time gap between the alleged acts committed by the petitioner in the year 2020 leading to lodging of Case Crime No. 430 of 2020 and declaration of the petitioner as a goonda and his externment from the limits of the District in the year 2026 and there is no reasonable nexus between registration of a criminal case in the year 2020 and declaration of the petitioner as a goonda in the year 2026.

16. So far as the beat information report is concerned, although the impugned order passed by the District Magistrate and the impugned appellate order passed by the Commissioner mention that the beat information has been found to be correct upon verification, neither any case is registered on the basis of a beat information report, nor is the person, against whom the beat information has been registered, given an opportunity of hearing in furtherance of that report. Any inquiry conducted on the basis of a beat information report without giving an opportunity of hearing to the affected person, i.e. the petitioner in the present case, cannot be used as a ground to declare him to be a Goonda, as it would violate the principles of natural justice.

17. Although the Courts have repetitively held that the Goonda Act is a powerful tool for the control and suppression of the 'Goondas': that it should be used very sparingly in very clear cases of 'public disorder' or for the maintenance of 'public order'; that it should not be allowed to be misused as a tool of oppression of innocent persons and that the Goonda Act is not intended to secure punishment of a person without his conviction for a substantial offence, numerous cases are being presented before this Court, indicating that the State is persistent in its approach of using the Goonda Act as a tool of oppression, and the present case is a glaring example of the abuse of the aforesaid statute.

18. In view of the foregoing discussions, I am of the considered view that the order dated 11.05.2026, passed by the District Magistrate, Gonda in Case No. 342 of 2021, under Section 3(1) of the Goonda Act whereby the petitioner has been declared to be a Goonda and has been externed from the limits of District Gonda for a period of six months, and the order dated 12.08.2026 passed by the Commissioner, Devi Patan Mandal, Gonda dismissing Appeal No. 895 of 2026 filed by the petitioner under Section 6 of

the Goonda Act against the order passed by the District Magistrate, are unsustainable in law.

19. Accordingly, the writ petition is **allowed**. The impugned order dated 11.05.2026, passed by the District Magistrate, Gonda in Case No. 342 of 2021, under Section 3(1) of the Goonda Act whereby the petitioner has been declared to be a Goonda and has been externed from the limits of District Gonda for a period of six months, and the order dated 12.08.2026 passed by the Commissioner, Devi Patan Mandal, Gonda dismissing Appeal No. 895 of 2026 filed by the petitioner under Section 6 of the Goonda Act against the order passed by the District Magistrate, are **quashed**.

September 10, 2026
Ram.

(Subhash Vidyarthi,J.)

Whether the judgment is speaking: Yes

Whether the judgment is reportable: No

(Subhash Vidyarthi,J.)