



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Crl.) No(s). 437 of 2023)**

FARHANA

.....APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ORS.

..RESPONDENT(S)

WITH

**CRIMINAL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Crl.) No(s). 3169 of 2023)**

J U D G M E N T

Mehta, J.

1. Leave granted.
2. Heard learned counsel representing the parties and perused the material available on record.
3. The appellants-Farhana and Sadarul Islam have filed the instant appeals for assailing the orders dated 14th November, 2022 and 6th December, 2022 passed by the Division Bench of the High Court of Judicature at Allahabad rejecting Criminal Miscellaneous

Writ Petition Nos. 16653 of 2022 and 18326 of 2022 preferred by the appellants respectively, with a prayer to quash the Case Crime No. 424 of 2022 registered against the appellants for the offence punishable under Section 3(1) of the Uttar Pradesh Gangsters and Anti-Social Activities(Prevention) Act, 1986(for short 'Gangsters Act') at Police Station-Bhognipur, District-Kanpur Dehat.

4. The short issue presented for adjudication in these appeals is as to whether the proceedings of the FIR under the provisions of the Gangsters Act and the prosecution of the accused can be continued in spite of exoneration in the predicate offences covered by Section 2(b)(i) of Gangsters Act. For the sake of convenience, Section 2(b)(i) of the Gangsters Act is quoted hereinbelow:-

“2(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.....”

5. The FIR impugned before the High Court came to be registered against the appellants at the instance of the inspector in-charge of the Police Station, Kanpur Dehat alleging *inter alia* that the appellants, being the members of a gang led by Puskal

Parag Dubey, were involved in following criminal cases:- (1) Crime Case No. 190 of 2021 under Sections 420, 467, 468, 471, 323, 504 and 506 of the Indian Penal Code, 1860(for short 'IPC') and (2)Crime Case No. 173 of 2019 under Sections 420, 467, 468, 471 IPC against Sadarul Islam and (3) Crime Case No. 173 of 2019 under Sections 420, 467, 468, 471 IPC against Farhana and, thus, they were liable to be prosecuted for the offences punishable under the Gangsters Act. The FIR further narrated that the gang has criminal history and with a view to impose a restriction on the activities of the gang, the FIR was being registered after obtaining prior approval pertaining to the Gang Chart from the District Magistrate under Section 3(1) of the Gangsters Act.

6. The appellants assailed the aforesaid FIR by way of filing the captioned criminal writ petitions before the High Court on the premise that as on the date of the filing of the FIR, only one case was registered against them and hence, the proceedings under Section 3(1) of the Gangsters Act were liable to be quashed and set aside.

7. Learned Division Bench of the High Court of Judicature at Allahabad considered the ratio of the judgment rendered by this Court in the case of ***Shraddha Gupta v. State of Uttar Pradesh***

and Others¹ wherein it was held that prosecution under the Gangsters Act can be initiated even against the person who is involved in a single offence/FIR/charge-sheet for any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act and rejected the criminal writ petitions by the impugned orders dated 14th November, 2022 and 6th December, 2022 which have been assailed in the present appeals.

8. Learned counsel for the appellants submitted that the decision rendered in the case of **Shraddha Gupta**(supra) would not apply to the case of the appellants because in the intervening period, proceedings of both the criminal cases being Crime Case No. 173 of 2019 and Crime Case No. 190 of 2021 have been quashed in the following manner:- (i) Crime Case No. 173 of 2019 registered against both the appellants, namely, Farhana and Sadarul Islam was quashed by the High Court of Judicature at Allahabad, vide order dated 3rd March, 2023, passed in Application under Section 482 No. 7228 of 2023; (ii) Crime Case No. 190 of 2021 registered against appellant Sadarul Islam was also quashed by the High Court of Judicature at Allahabad vide order dated 18th

¹ 2022 SCCOnline SC 514

October, 2023, passed in Application under Section 482 No. 18493 of 2023.

9. On these grounds, learned counsel for the appellants urged that there being no on-going prosecution of the appellants for any offence(s) involving anti-social activities as defined in Section 2(b)(i) of the Gangsters Act, the continuation of the proceedings of the criminal case and the charge-sheet filed against the appellants pursuant to investigation of Case Crime No. 424 of 2022 under the Gangsters Act is absolutely unjustified and tantamounts to abuse of process of the Court.

10. On these submissions, he implored the Court to accept the appeals and quash the proceedings of the criminal case pending against the appellants in the jurisdictional Court.

11. *Per contra*, learned counsel representing the State urged that there is no dispute that at the time of registration of FIR, the appellants were being prosecuted for multiple FIRs involving anti-social offences as defined under Section 2(b)(i) of the Gangsters Act and hence, the proceedings of the FIR under the Gangsters Act cannot be quashed in light of decision rendered by this Court in the case of ***Shraddha Gupta***(supra).

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

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

14. There being no dispute that in the proceedings of the sole FIR registered against the appellants for the offences under Chapter XVII IPC being Crime Case No. 173 of 2019, the appellants stand exonerated with the quashing of the said FIR by the High Court of Judicature at Allahabad by exercising the powers under Section

482 of Code of Criminal Procedure, 1973, vide order dated 3rd March, 2023 passed in Application No. 7228 of 2023.

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

16. As a consequence of the discussion made herein above, the impugned orders dated 14th November, 2022 and 6th December, 2022 passed by the High Court of Judicature at Allahabad are quashed and set aside. Resultantly, the impugned FIR being Crime Case No.424 of 2022 for offence punishable under Section 3(1) of the Gangsters Act, registered at Police Station- Bhognipur, District- Kanpur Dehat and all the proceedings sought to be taken thereunder against the appellants are hereby quashed.

17. The appeals are allowed accordingly.

18. Pending application(s), if any, shall stand disposed of.

.....J.
(J.B. PARDIWALA)

.....J.
(SANDEEP MEHTA)

New Delhi;
February 19, 2024