

Court No. - 15

Case :- CRIMINAL REVISION No. - 366 of 2025

Revisionist :- State Of U.P. Thru. Prin. Secy. Home Lko.

Opposite Party :- Special Judge (Mp Mla Court) Addl. Sessions
Judge-I, Balrampur And 6 Others

Counsel for Revisionist :- G.A.

Counsel for Opposite Party :- Purnendu Chakravarty

Hon'ble Subhash Vidyarthi J.

1. Heard Sri Vinod Kumar Shahi, the learned Additional Advocate General and Sri Anurag Verma, the learned Additional Government Advocate-First for the revisionist – State of U.P., Sri Vijay Dixit, who has filed his memo of appearance on behalf of respondent no. 1 – Special Judge, MP/MLA Court, Balrampur which is taken on record and Sri Purnendu Chakravarty, the learned counsel for the respondent no. 7.
2. An F.I.R. bearing Case Crime No. 54 of 2022 was lodged in Police Station Tulsipur, District Balrampur on 31.03.2022, under Section 3(1) of U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986 (hereinafter referred to as 'the Gangsters Act') against six persons (the respondent nos. 2 to 7), stating that the accused persons have formed a gang, of which the respondent no. 5 is the leader and the other accused persons are its members. The members of this gang entered into a criminal conspiracy for killing Firoz alias Pappu, former Chairman of Block Tulsipur for establishing their political clout in an attempt to win the elections. In this regard, Case Crime No. 2/2022, under Sections 302, 120-B IPC was registered against unknown persons. During investigation, name of the leader and members of the aforesaid gang came to light. A charge-sheet has been submitted against all the accused persons on 13.03.2022. Another F.I.R. bearing Case Crime No. 93/2021, under Sections 147, 149, 332,

353, 504, 506, 393, 307, 427, 435 IPC and 7 Criminal Law Amendment Act was lodged against the leader and members of the gang stating that during triple level panchayat Elections, the accused persons had abused and assaulted Sub-Inspector Ajeet Kumar and his companion constable on 26.04.2021, had attempted to push them in fire and snatched away his service pistol. The accused persons had set on fire some vehicles of a rival party. A charge-sheet has been submitted in that case also. The gang leader Rizwan Jaheer, its member Rameez and some other persons had damaged several vehicles of a candidate of a rival party and had set them ablaze. Case Crime No. 94/2021, under Sections 147, 149, 435, 427, 323, 504, 506 IPC was lodged in this regard and a charge-sheet has been submitted in this case also. A member of the gang Merazul Haq had assaulted and threatened one Rajan Yadav on 16.08.2020 and Case Crime No. 195/2020, under Sections 323, 506 IPC was lodged in this regard and a charge-sheet has been submitted in that case also.

3. The F.I.R. states that from the aforesaid acts of gang leader Rizwan Zaheer and the other members of his gang, an atmosphere of fear and terror is prevailing amongst the public at large. The gang members pressurize the prosecution witnesses so that they may not give evidence. The members of the gang have committed offences mentioned in Chapter 16s, 17 and 22 of the Indian Penal Code. Their actions make out offences mentioned in Clauses (i), (iv) and (xi) of Section 2(b) of the Gangsters Act which is punishable under Section 3 of the Act. The District Magistrate has approved the gang-chart on 30.03.2022.
4. On 13.12.2024, the Inspector in-charge, Police Station Tulsipur, District Balrampur submitted a report to the Special Judge / Additional Session Judge-I/MP/MLA, District Balrampur in Session Trial No. 85/2022 arising out of Case Crime No. 2/2022, under Sections 302, 120B IPC, Police Station Tulsipur stating that Session Trial No. 85 of 2022 arising out of Case Crime No. 2 of 2022 under Sections 302, 120-B IPC is a base case of Session Trial No. 9/2022

arising out of Case Crime No. 54 of 2022, under Section 3(1) of the Gangsters Act. Session Trial No. 9 of 2022 is pending before the same court and it is at the stage of evidence. It is fixed for 20.12.2024. The application stated that Section 12 of Gangsters Act provides that the trial under the Gangsters Act of any offence by Special Court shall have precedence over the trial of any other case against the accused in any other Court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

5. The application also refers to Rule 57 of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021, which provides that:-

“57. Trial of Base Cases.—

It shall be the responsibility of the Inspector-In-charge/Station House Officer/Inspector concerned and the Investigator, as the case may be, to submit an application through the Public Prosecutor in the concerned Special Court for the trial of Special Court to have precedence over trial of base cases under any other Act in accordance with the provisions of Section 12 of the Act.”

6. The prosecution prayed that keeping in view the provisions contained in Section 12 of the Gangsters Act and Rule 57 of the Gangsters Rules, proceedings of Session Trial No. 85/2022, under Sections 302, 120-B IPC be kept in abeyance and Session Trial No. 9/2022 arising out of Case Crime No. 54/2022, under Section 3(1) of Gangsters Act be given precedence. The prosecution relied upon the judgment of the Hon'ble Supreme Court in **Dharmendra Kirthal v. State of U.P.:** (2013) 83 ACC 111: 2013 (8) SCC 368, in which the Hon'ble Supreme Court has held that the case under the Gangsters Act has to be decided by giving it precedence and the other cases should be kept in abeyance.
7. On 16/17.12.2024, the Public Prosecutor gave another application in Session Trial No. 85/2022 with the same prayer which application has been numbered as 42-B. Similar applications were given in other

cases mentioned in the gang chart forming a part of the F.I.R. No. 54/2022, under Sections 3(1) of U.P. Gangsters Act.

8. The accused persons filed objections against the application stating that this Court has interpreted under Section 12 of the Gangsters Act in the case of *Mubin Iftikar Zaidi v. State of U.P.* and has held that a perusal of Section 12 indicates that legislative intent and object behind it is that preference be given to cases under the Gangsters Act and no undue delay should be caused in it because of pendency of other cases in other courts. It is not the legislative intent that till conclusion of proceedings under the Gangsters Act, trial of the other cases be kept in abeyance. The object behind this provision is that the date fixed in the case under Gangsters Act and in other cases should not clash and it may be assured that no undue delay is caused in disposal of the case under the Gangsters Act and it should reach its logical conclusion expeditiously. It cannot be the intention of the legislature that a person who is wanted in any case relating to the offences of murder, dacoity, robbery or rape should not be proceeded with till conclusion of the case under the Gangsters Act. It was stated in the objection that if Sections 7, 8 & 12 of the Gangsters Act are read collectively, it becomes clear that the legislative intent behind Section 12 is that the cases under the Gangsters Act be not delayed but other matters may also go on. The purport of keeping in abeyance is that if the dates fixed are the same, the cases under the Gangsters Act will be given precedence. \
9. It was also stated in the objections that the prosecution is delaying the case under the Gangsters Act whereas in the case of *Ashwini Kumar Upadhyay v. Union of India*: 2018 SCC OnLine SC 3713 decided by the Supreme Court on 10.09.2020 it has been directed that except in rare and exceptional circumstances, no adjournment shall be granted.
10. The trial court rejected the application by means of an order dated 10.01.2025 holding that the entire evidence has been recorded and the matter is at the stage of hearing submissions. The Court had passed an order dated 21.12.2024 directing that the case relating to Section 302

IPC being the base case for the Gangsters Act, will be decided together but the prosecution has not led any evidence in the case relating to the Gangsters Act.

11. The trial court rejected the applications and ordered recovery of costs imposed upon the inspector in-charge Tulsipur and Circle Officer, Tulsipur. Separate Miscellaneous cases were ordered to be registered against the District Magistrate and Superintendent of Police, Balrampur for being referred to this court under Rule 53 of the General Rules Criminal. In furtherance of this order, three separate criminal miscellaneous cases were registered against the District Magistrate, Balrampur and Superintendent of Police, Balrampur.
12. The Inspector In-charge and the Circle Officer challenged the order of imposition of cost by filing application under Section 482 Cr.P.C. No. 355 of 2025 which was allowed in part by means of a judgment and order dated 20.01.2025 passed by a coordinate Bench of this Court whereby the order dated 21.12.2024 was set aside only to the extent that it imposed cost against the police officers and had ordered its recovery from their salary. In this order, this Court observed that: -

“Having heard the learned counsel for the parties and having perused the material available on record it emerges that, since, the present applicants have prayed a limited prayer only to the extent that cost so imposed against them, the further order that such cost would be recoverable from the salary of the applicants and the stricture of the order may be set aside, therefore, I am only dealing that prayer in a limited manner. However, before advertng to the aforesaid prayer, I would like to observe that the findings and observation of the learned trial court by the impugned order dated 21.12.2024 are absolutely appropriate and valid and the anxiety and concern which has been shown by the learned trial court is absolutely correct. Since, the trial in gangsters act and in the base case are pending consideration before the same court and it is a pious duty of the prosecuting agency as well as the State to try its level best to assist the court properly so that the trial in gangsters act be concluded at the earliest in the light of Section 12 and Rule 57 of the Act. At the same time, the defence side may also not adopt any delaying tactics delaying the trial of the gangsters act or trial of the base case. Therefore, if the prosecution or the defence delay the trial in gangsters act by filing adjournment applications or file an

application that the trial in base case be concluded first, it will create procedural impediment. Therefore, the learned trial court has rightly held that the proceedings of gangsters act and base case would be decided simultaneously.

So far as the applications filed by the applicants bearing no. 40 B is concerned, that has been filed in a bonafide manner, apprising the legal position and since, that application created legal hindrance in the proceedings for that the applicants have tendered their unconditional apology in paragraph 34 of the application, which is accepted.”

13. After passing of the aforesaid order, the prosecution filed an application dated 17.03.2025 stating that this Court has held in para 11 of its order that the Circle Officer and Inspector In-charge had filed the application in good faith and, therefore, the proceedings of three criminal miscellaneous cases should be closed. The trial court rejected the applications by means of an order dated 21.03.2025 and granted the last opportunity to the District Magistrate and the Superintendent of Police to submit reply in furtherance of the order dated 21.12.2024.
14. On 21.12.2024, the Special Judge, MP/MLA passed an order rejecting the application 40-B for keeping the base case in abeyance wherein it is recorded that: -

“22. It appears that SHO/CO (T) Balrampur has not presented the application 40B through SP Balrampur, DM Balrampur but the knowledge of these application to them may be gathered from the application 42B by DGC (Cri). May be the DM Balrampur & SP Balrampur are not aware of application 40B. Application 40B has been erroneous practice on the part of police and also contempt of Hon’ble Supreme Court of India (Ashwani Kumar Upadhyay’s case) and of Hon’ble High Court Allahabad in application U/s 482 No.2583/2022 Afroz Ahmad Alias Rinku’s case. Reply is awaited within 15 days from the District Magistrate, Balrampur & SP Balrampur and if no response is given the matter may be referred to the Hon’ble High Court of Allahabad for appropriate action including both the DM and SP Balrampur under Rule 53 of General Rule Civil

23. In the backdrop of facts and circumstances of this case, it appears that application by SHO Tulsipur as such forwarded by CO(T), Balrampur is without any locus standi and also without sufficient cause. The locus standi and cause both have been manufactured by SHO and CO (T) Balrampur in the grab of Section 12 read with Rule 57 of the UP Gangsters Act in

contempt of Ashwani Kumar Upadhyay's case. As well interpreting the Section 12 read with rule 57 of the Gangsters Act as per their convenience to thwart the proceeding of the case so that under trial prisoners may be kept in the jail without trial. So, application 40B Jeopardise the concept of speedy trial and fair trial available to an under-trial prisoners.

24. After giving a judicial thought to the application 40B of SHO Tulsipur/CO (T), Balrampur and application 42B by DGC(Criminal) himself is only an abuse of process of law. Such an attempt should be not only condemned but these application 40B and 42 B are liable to be dismissed with penal costs."

15. The aforesaid orders have been challenged by the State by filing the instant criminal revision.
16. On 27.03.2025, this Court had passed an interim order staying the operation and implementation of the orders dated 21.12.2024, 10.01.2025 passed by the Special Judge in SST No. 85/2022 and the orders passed in Criminal Misc. Cases No. 10/2025, 12/2025 & 15/2025 and notices were ordered to be issued to the respondents. Notices stand served on all the respondents except respondent no. 6 who has died. Therefore, the revision stands abated as against the respondent no. 6. The respondent nos. 2 to 5 have chosen not to put in appearance. Sri Purnendu Chakravarty has put in appearance on behalf of respondent no. 7.
17. The respondent no. 7 Zeba Rizwan has filed an application for vacation of the interim order dated 27.03.2025 and an application for dismissal of the criminal revision.
18. A copy of the order dated 20.01.2025 passed by a coordinate Bench of this Court in an application under Section 482 Cr.P.C. No. 355 of 2025 has been annexed with the counter affidavit and reliance has been placed on the observations made in that order.
19. The learned counsel for the respondent no. 7 has placed reliance on the judgment in the case of **Ashwini Kumar Upadhyay v. Union of India**: (2024) 1 SCC 185 para 9, which was a Public Interest writ petition under Article 32 of the Constitution of India seeking two distinct reliefs. The first related to expeditious disposal of criminal

cases against elected Members of Parliament and Legislative Assemblies. The second prayer related to the constitutional validity of Section 8 of the Representation of the People Act, 1951. By this order, the Hon'ble Supreme Court disposed of the writ petition as regards the first prayer after formulating the following guidelines for expeditious disposal of the subject cases: -

“21.1. The learned Chief Justices of the High Courts shall register a suo motu case with the title, “In Re : Designated Courts for MPs/MLAs” to monitor early disposal of criminal cases pending against the Members of Parliament and Legislative Assemblies. The suo motu case may be heard by the Special Bench presided by the learned Chief Justice or a Bench assigned by them.

21.2. The Special Bench hearing the suo motu case may list the matter at regular intervals as is felt necessary. The High Court may issue such orders and/or directions as are necessary for expeditious and effective disposal of the subject cases. The Special Bench may consider calling upon the Advocate General or the Public Prosecutor to assist the Court.

21.3. The High Court may require the Principal District and Sessions Judge to bear the responsibility of allocating the subject cases to such court or courts as is considered appropriate and effective. The High Court may call upon the Principal District and Sessions Judge to send reports at such intervals as it considers expedient.

21.4. The Designated Courts shall give priority:

(i) first to criminal cases against MPs & MLAs punishable with death or life imprisonment then to

(ii) cases punishable with imprisonment for 5 years or more, and then hear

(iii) other cases.

The trial courts shall not adjourn the cases except for rare and compelling reasons.

21.5. The learned Chief Justices may list cases in which orders of stay of trial have been passed before the Special Bench to ensure that appropriate orders, including vacation of stay orders are passed to ensure commencement and conclusion of trial.

21.6. The Principal District and Sessions Judge shall ensure sufficient infrastructure facility for the Designated Courts and

also enable it to adopt such technology as is expedient for effective and efficient functioning.

21.7. The High Courts shall create an independent tab on their website providing districtwise information about the details of the year of filing, number of subject cases pending and stage of proceedings. We make it clear that while monitoring the subject cases, the Special Bench may pass such orders or give such additional directions as are necessary for early disposal of the subject cases.”

20. The aforesaid directions have been issued without taking into consideration the statutory mandate contained in Section 12 of the Gangsters Act and, therefore, it would not dilute the binding effect of the legislative mandate contained in Section 12 of the Gangsters Act.
21. Although the objections filed by the accused persons before by the trial Court and the impugned order passed by the trial Court refer to a judgment titled *Mubin Iftikhar Zaidi v. State of U.P.*, neither its citation have been given in the objections or the order, nor has any other particular been given. This is not the way of referring to a precedent. However, I searched for the judgment and found that the correct case title is “**Mobin Iftikhar Zaidi versus State Of U.P. And Others:** Neutral Citation: 2011:AHC:118940, wherein a Single Judge Bench of this Court held that: -

“A perusal of the aforesaid provision reveals the legislative intent behind the said provision and its object was that the trial under the Gangsters Act should be given preference and the same should not get unduly delayed because of pendency of other cases in other courts. The legislative intention was not that the proceedings of other offences must be kept in abeyance till conclusion of trial under the Gangsters Act. Its intent was that the dates fixed in the other trials and in the case under the Gangsters Act should not clash together, in order to ensure that the trial under the Gangsters Act does not get unduly delayed or hampered with and reaches to its logical conclusion at the earliest. It can not be the intention of the legislature that if a person is required in other cases in crimes of such heinous nature such as murder, dacoity, loot and rape etc, the trial of those offences should not proceed further till conclusion of trial under Gangsters Act. In view of the above, it is clear that the legislative intent is that the trial under the Gangsters Act need be given preference to other trial.

Further more the statutory provision has to be interpreted in manner which is in consonance with the legislative intent and also harmonious to other provisions of law. Section 309 Cr.P.C. provides that if examination of witness has been started, the Session trial has to be conducted on day to day basis. and the said provision has to be read in conjunction with Section 12 of the Act and if both the provisions are read together, it will be very clear that the legislative intent of section 12 of the Act is that trial under the Gangsters Act, should not be hampered because of the dates fixed in the other trials and the trial under the Gangsters Act should be given preference. It can not be the intention of the legislature that pendency of trial under Gangsters Act requires that other sessions trials should be stayed, which would not only be against the legislature intent but against public policy. Those cases which are pending against the accused persons for other offences excepting under the Gangsters Act, can be fixed and decided on those dates where the proceedings under the Gangsters Act has not been fixed. Further more it has to be seen that if the trial under other offences are to be stayed till the conclusion of the trial under the Gangsters Act, then it would mean that no gangster can be convicted on account of his being a gangster. It does not mean that the criminal activities, which are the earlier offences of a gangster, should not be tried expeditiously. Further more it is constitutional mandate that the trials should be concluded expeditiously and such interpretation that till Gangster trial is concluded the trial of other offences should be stayed is not in consonance with the constitutional mandate. Still again, it is to be borne in mind that this Court as well as the Hon'ble Apex Court has repeatedly held that the trial of criminal cases should be decided expeditiously, and thus, the interpretation that till pendency of trial under the Gangsters Act, the trial of other criminal offences be stayed, would be in the teeth of the well settled principle of law so laid down by this court as well as the Hon'ble Apex Court."

22. However, after the aforesaid interpretation of Section 12 of the Gangsters Act was made by a Single Judge Bench, the Hon'ble Supreme Court held examined the constitutionality of a number of provisions of the Gangsters Act in **Dharmendra Kirthal v. State of U.P.:** (2013) 8 SCC 368. The Hon'ble Supreme Court referred to the Statement of Objects and Reasons and the preamble of the Act which as follows: -

"Gangsterism and anti-social activities were on the increase in the State posing threat to lives and properties of the citizens. The

existing measures were not found effective enough to cope with this new menace. With a view to break the gangs by punishing the gangsters and to nip in the bud their conspiratorial designs it was considered necessary to make special provisions for the prevention of, and for coping with gangsters and anti-social activities in the State.

Since the State Legislature was not in session and immediate legislative action in the matter was necessary, the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Ordinance, 1986 (U.P. Ordinance No. 4 of 1986) was promulgated by the Governor on 15-1-1986, after obtaining prior instructions of the President.

The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Bill, 1986 is accordingly introduced with certain necessary modifications to replace the aforesaid Ordinance.”

11. The Preamble of the Act reads as follows: -

“An Act to make special provisions for the prevention of, and for coping with, gangsters and anti-social activities and for matters connected therewith or incidental thereto.”

23. The Hon'ble Supreme Court held in **Dharmendra Kirthal** (Supra) that : -

“15.The Statement of Objects and Reasons and the Preamble make it quite clear that the legislature felt the compulsion to make special provisions against gangsterism and anti-social activities. While speaking about terrorism, the majority in Kartar Singh [Kartar Singh v. State of Punjab, (1994) 3 SCC 569] opined that:

“68. ... it is much more, rather a grave emergent situation created either by external forces particularly at the frontiers of this country or by anti-nationals throwing a challenge to the very existence and sovereignty of the country in its democratic polity.”

The learned Judges put it on a higher plane than public order disturbing the “even tempo of the life of community of any specified locality” as has been stated by Hidayatullah, C.J., in Arun Ghosh v. State of W.B. [(1970) 1 SCC 98 : 1970 SCC (Cri) 67]

16. The present Act deals with gangs and gangsters to prevent organised crime. Section 2 of the Act is the dictionary clause. Section 2(b) defines the term “gang” and we think it apt to quote the relevant part which is as follows:

“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”

After so defining, the legislature has stipulated the offences which are punishable under the Act, but they need not be referred to.

17. The term “gangster” has been defined under Section 2(c) which is as follows:

“2. (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;”

19. Section 5 of the Act deals with Special Courts and Section 5(1) provides that for the interest of speedy trial of offences under this Act, the State Government may, if it considers necessary, constitute one or more Special Courts. Section 7 deals with the jurisdiction of the Special Courts. Section 7(1) provides that:

“7. Jurisdiction of Special Court.—(1) Notwithstanding anything contained in the Code, where a Special Court has been constituted for any local area, every offence punishable under any provision of this Act or any rule made thereunder shall be triable only by the Special Court within whose local jurisdiction it was committed whether before or after the constitution of such Special Court.”

Sub-section (2) of Section 7 lays the postulate that:

“7. (2) All cases triable by a Special Court, which immediately before the constitution of such Special Court were pending before any court, shall on creation of such Special Court having jurisdiction over such cases, stand transferred to it.”

20. Section 8 deals with the power of Special Courts with respect to other offences which reads as follows:

“8. Power of Special Courts with respect to other offences.—(1) When trying any offence punishable under this Act a Special Court may also try any other offence with which the accused may, under any other law for the time being in force, be charged at the same trial.

(2) If in the course of any trial under this Act of any offence, it is found that the accused has committed any other offence under this Act or any rule thereunder or under any other law, the Special Court may convict such person of such other offence and pass any sentence authorised by this Act or such rule or, as the case may be, such other law, for the punishment thereof.”

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22. Section 12, the validity of which is under attack, is as follows:

“12. Trial by Special Court to have precedence.—The trial under this Act of any offence by Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.”

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32. The present provision is to be tested on the touchstone of the aforesaid constitutional principle. The provision clearly mandates that the trial under this Act of any offence by the Special Court shall have precedence and shall be concluded in preference to the trial in such other courts to achieve the said purpose. The legislature thought it appropriate to provide that the trial of such other case shall remain in abeyance. It is apt to note here that “any other case” against the accused in “any other court” does not include the Special Court. The emphasis is on speedy trial and not denial of it. The legislature has incorporated such a provision so that an accused does not face trial in two cases simultaneously and a case before the Special Court does not linger owing to clash of dates in trial. It is also worthy to note that the Special Court has been conferred jurisdiction under sub-section (1) of Section 8 of the Act to try any other offences with which the accused may, under any other law for the time being in force, have been charged and proceeded at the same trial.

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36. On a careful scrutiny of the provision, it is quite vivid that the trial is not hampered as the trial in other courts is to remain in abeyance by the legislative command. Thus, the question of procrastination of trial does not arise. As the trial under the Act would be in progress, the accused would have the fullest opportunity to defend himself and there cannot be denial of fair trial. Thus, in our considered opinion, the aforesaid provision

does not frustrate the concept of fair and speedy trial which are the imperative facets of Article 21 of the Constitution.

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*39. From the aforesaid, it is quite clear that no individual has any right to hazard others' liberty. The body polity governed by the rule of law does not permit anti-social acts that lead to a disorderly society. Keeping the aforesaid perspective in view, the submission of the learned counsel for the petitioner and the argument advanced in oppugnation by the learned counsel for the respondent are to be appreciated. **It is urged that an accused tried under this Act suffers detention as the trial in other cases are not allowed to proceed. As far as other cases are concerned, there is no prohibition to move an application taking recourse to the appropriate provision under the Code of Criminal Procedure for grant of bail. What is stipulated under Section 12 of the Act is that the trial in other case is to be kept in abeyance. The Special Courts have been conferred with the power to try any other offence with which the accused under the Act is charged at the same trial.***"

24. The law laid down in **Dharmendra Kirthal** (Supra) is the authoritative pronouncement regarding interpretation of Section 12 of the Gangsters Act.
25. Again, in **Shraddha Gupta v. State of U.P.**: (2022) 19 SCC 57, the Hon'ble Supreme Court held that: -

"21. Section 10 provides that a Special Court may take cognizance of any offence triable by it, without the accused being committed to it for trial upon receiving a complaint of facts which constitute such offence or upon a police report of such facts. Section 12 provides that the trial under the Gangsters Act of any offence by Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

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23. From the aforesaid, it can be seen that all provisions are to ensure that the offences under the Gangsters 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 Gangsters Act."

26. Section 20 of the Gangsters Act is also relevant to be taken note of, which provides as follows: -

“20. Overriding effect.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment.”

27. Therefore, the provisions of Section 12 of the Gangsters Act will have effect notwithstanding anything inconsistent therewith contained in any other law.
28. Moreover, the charge-sheet regarding Case Crime No. 2/2022, under Sections 302, 120-B IPC was submitted on 13.03.2022 and the case under the Gangsters Act is also pending since the year 2022. It is not that the trial is pending since long and it is being unduely delayed due to pendency of the case under the Gangsters Act. Both the cases are pending in the same Court.
29. A copy of an information dated 26.03.2025 provided by the District Government Counsel (Criminal) Balrampur has been annexed with the revision, as per which in the three base cases against the respondents – accused pending in the Special Court , viz. (1) Special Session Trial No. 85 of 2022 arising out of Case Crime No. 2/2022, under Sections 302, 120-B IPC, (2) S.T. No. 163 of 2021 arising out of Case Crime No. 93/2021, under Sections 147, 149, 332, 353, 504, 506, 393, 307, 427, 435 IPC and 7 Criminal Law Amendment Act and (3) S.T. No. 203 of 2022 arising out of Case Crime No. 183/2022, under Sections 323, 504, 506, 327, 307, 447 IPC, evidence already stands recorded whereas trial of the offence under the Gangsters Act is at the stage of defence evidence. All the four cases are pending in the same Court.
30. In view of the foregoing discussion, I am of the considered view that the trial Court has rejected the prayer for giving precedence to trial of the offence under the Gangsters Act by keeping the other cases against the accused persons pending before the same Court in abeyance, in ignorance of the law laid down by the Hon’ble Supreme Court in **Dharmendra Kirthal** (Supra). The orders under challenge are consequential to the rejection of this prayer and, therefore, the same are also unsustainable in law.

31. In view of the foregoing discussion, this Criminal Revision is *allowed*. Para B of the order dated 21.12.2024 passed by the learned Special Judge (MP/MLA Court) / Additional Session Judge – I, Balrampur in Special Session Trial No. 85 of 2022 whereby the trial Court has called for explanation from the District Magistrate and Superintendent of Police Balrampur, clause (ga) of the order dated 10.01.2025 passed in the aforesaid case whereby separate Criminal Miscellaneous cases were ordered to be registered against the aforesaid authorities and the orders dated 13.01.2025 passed in Criminal Miscellaneous Case Nos. 08 of 2025, 10 of 2025 and 12 of 2025 as well as the entire proceedings of the aforesaid three Criminal Miscellaneous Cases are set aside.

(Subhash Vidyarthi J.)

Order Date: 21.05.2025

Pradeep/-