

(2025) 08 AHC CK 0658

In the Allahabad High Court

Case No : Criminal Misc.Writ Petition No.14839 of 2025

Mohammad Wajir

APPELLANT

Vs

State of U.P. and 3 others

RESPONDENT

Date of Decision : 28-08-2025

Acts Referred:

Code of Civil Procedure, 1908 — Section 96, 151, Order 7 Rule 11
Transfer of Property Act, 1882 — Section 54, 55

Citation : (2025) 08 AHC CK 0658

Hon'ble Judges : Chandra Kumar Rai, J

Bench : Division Bench

Advocate : Abhishek Kumar, Ishwar Kumar Upadhyay, Akhilesh Kumar Sharma, Ishir Sripat, Kaushalendra Nath Singh

Final Decision : Dismissed

Judgement

Santosh Rai, J

1. Heard Sri Sunil Kumar Singh, learned counsel for the petitioner and learned A.G.A. for the State.

2. This writ petition has been filed seeking a writ, order or direction in the nature of certiorari quashing the order dated 23.06.2025 passed by Superintendent of Police, Siddharthnagar by which the petitioner's representation for closure of History-sheet no.18 A category has been rejected.

3. The facts in brief as contained in the writ petition are that the petitioner is a reputed person and doing his private work having no criminal history except one case mentioned as Case Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act. Earlier the petitioner approached this Court by means of Criminal Misc. Writ Petition No.8156 of 2024. The same has been disposed of by order dated 17.03.2025 with direction that petitioner shall file an appropriate application before Superintendent of Police, Siddharthnagar and same shall be considered and decided by Superintendent of Police, Siddharthnagar. In

compliance of order dated 17.03.2025 the petitioner approached respondent no.3 Superintendent of Police, Siddharthnagar. By order dated 23.06.2025 respondent no.3 has rejected the representation of the petitioner. Hence this writ petition.

4. Learned counsel for the petitioner submitted that the petitioner Mohammad Wajir is not habitual offender. Only one case, bearing Case Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act was registered against him. Investigation of this case has already been concluded and chargesheet has been filed before the court. The applicant has already been obtained bail that in the above case. No any F.I.R. or N.C.R. or complaint has been registered against the petitioner except the above case. The concerned police authority has wrongly opened the history-sheet against the petitioner without cogent and reliable material and in violation of para 228, 229, 231, 233 and other relevant rules of the Uttar Pradesh Police Regulations. The purpose of police regulation to open the history-sheet is to give special power in the hands of the police to keep vigilance on the activity of the history-sheeter who may be involved in criminal activities. It is true that history-sheet may be opened and vigilance surveillance may be conducted against the accused person according to law but only one case has been registered in the year 2016 against the petitioner and no other criminal case or complaint has been registered against the petitioner before the police station or the court concerned. History-sheet has been opened by the police authority on the basis of only one incident/case, which has been registered 8 years back. He further submitted that history-sheet being opened as History Sheet no.18A category which is completely illegal and liable to be quashed. He further prayed that issue writ order or direction in the nature of certiorari to quash the order dated 23.06.2025 passed by Superintendent of Police, Siddharthnagar. Further prayer is that order or direction may be issued in the nature of mandamus commanding to the respondents not to take any coercive measure on the basis of History Sheet No.18A category.

5. Learned A.G.A. for opposite parties vehemently opposed the above argument and submitted that police authority has power under the Uttar Pradesh Police Regulations to open the history-sheet against the habitual offender or the suspects on the basis of information collected through the concerned police station on the basis of relevant material. Concerned police station of police rightly or legally opened the History-sheet no.18A category against the petitioner. He further admitted that no any cognizable offence or non cognizable offence or complaint has been registered against the petitioner except Case Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act, P.S. Dumariyaganj, District Siddharthnagar.

6. In the light of the above observation made by learned counsel for the petitioner and learned A.G.A. we thoroughly perused the relevant record. It is admitted fact that 'only' one case Case Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act has been registered against the petitioner and no any

other case is pending or registered against the

accused-petitioner. It has been submitted before the Court that trial in Case Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act is pending before the court concerned. The aforesaid incident occurred on 21.04.2016 and the first information report was registered against five accused persons namely Kale son of Heera, Shamshulla son of Shohrat, Wajir son of Basheer, Arman and Gajju. On the basis of very same crime number, History-sheet no.18A category dated 07.02.2024 was approved against only one accused petitioner Mohammad Wajir only by Superintendent of Police, Siddharthnagar. Prior to it, the petitioner Mohammad Wajir has filed Criminal Misc. Writ Petition No.8156 of 2024 before this Court. Coordinate Bench of this Court has passed an order on 17.03.2025. Relevant para-5 is quoted below:-

"5. Considering the facts and circumstances, no useful purpose would be served in keeping the writ petition pending. With the consent of the parties, the writ petition is disposed of finally with the direction that the petitioner shall file an appropriate application before respondent no. 3 (Superintendent of Police, Siddharthnagar) within ten days from today, and the Superintendent of Police, Siddharthnagar, shall consider and decide the said application strictly in accordance with law, preferably within three months from the date of its filing. It is made clear that this Court has not expressed any opinion on the merits of the case."

7. In compliance of the order of the co-ordinate Bench of this Court dated 17.03.2025, the Superintendent of Police, Siddharthnagar has rejected the representation of the petitioner on 23.06.2025 on the basis of the report of the Circle Officer, S.H.O., police station Bhawaniganj, District Siddharthnagar by mentioning the provision of Uttar Pradesh Police Regulations particularly paras 228 and 240 of Uttar Pradesh Police Regulations.

8. Paras 228, 231 and 240 of Uttar Pradesh Police Regulations reads as under:-

" 228. History sheets, Part V of the village Crime Note Book- Part V consists of history sheets. These are the personal records of criminals under surveillance. History-sheets should be opened only for persons who are or like to become habitual criminal or abettors of such criminals. There will be two classes of history-sheets :

1. Class A history-sheets for dacoits, burglars, cattle-thieves, railway goods wagon thieves, and abettors thereof.

2...

History-sheets of both classes will be maintained in similar form, but those for class B will be distinguished by a red bar marked at the top of the first page. No history-sheet of class B may be converted into a history-sheet of class A, though should be the subject of a history-sheet class B be found to be also addicted to dacoity, burglary, cattle-theft or theft from railway goods wagons. A class, as well

as B class, surveillance may under paragraph 238 be applied to him. In the event of a class A history-sheet man becoming addicted to miscellaneous crime his history-sheet may be converted into a class B history-sheet with the sanction of the Superintendent."

"231. Subjects of history sheets of A-Class - The subjects of historysheets of class A will unless they are 'starred' remain under surveillance for a least two consecutive years of which they have spent no part in jail. When the subject of a history sheet of class A whose name has not been 'starred' who has never been convicted of cognizable offence and has not been in jail or suspected of any offence or absented himself in suspicious circumstances for two consecutive years his surveillance will be discontinued, unless for special reasons to be recorded in the inspection book of the police station the Superintendent decides that it should continue. When the subject of a history-sheet of class A is 'starred' he will remain starred for at least two consecutive years during which he has not been in jail or been suspected of a cognizable offence or had any suspicious absence recorded against him. At the end of that period if he is believed to have reformed he will cease to be 'starred' but will remain subject to surveillance which will be discontinued only if during that period no complaints have been recorded against him."

240. History sheets of both classes when to be opened? - History-sheets of both classes may be opened (1) on suspicion or (2) on conviction or acquittal. No history-sheet may be opened without the orders of the Superintendent of Police.

(1) On suspicion.- Whenever as a result of investigation into a case of dacoity, burglary, cattle theft from railway goods wagons or into a case of miscellaneous crime of a professional type, the officer-in-charge of a police station applies for the name of any person to be entered in the crime register as reasonably suspected, he must at the same time report whether the suspect is under surveillance, and if not, whether a history-sheet should in his opinion be opened for him. Should the gazetted officer-in-charge of a sub-division on receiving such a report and after such further inquiry as he may think necessary consider that a history-sheet is required, he will forward the report to the Superintendent who if he accepts the proposal will define the class of historysheet to be opened and pass orders as to whether the suspect should be 'starred'. Similarly whenever an officer-in-charge of a police station finds reason to believe, otherwise than in the course of an investigation, that any resident of his circle is addicted to crime, or whenever a gazetted officer or circle inspector for any reason believes that a history-sheet for any person is necessary a report must be submitted to the Superintendent, who will pass orders on it as laid down above."

9. The Apex Court in the case of Govind Vs. State of Madhya Pradesh, AIR 1975 SC, 1378 observed that a person subjected to surveillance, the object and limitation of such surveillance depends upon character and antecedents of the person concerned. The Police Regulation has force of law and, therefore, it can not be said to be infringement of fundamental right. Nevertheless Article 21 of

the Constitution is a right of an individual to be free from restriction or encroachment directly imposed or indirectly approached by calculated measures.

10. Thus, we have to examine case on the basis of facts and circumstances. We are of the considered view that Regulation 228 and 240 does not give an unbridled, uncanalised power to the police to use it in such a way which has necessary consequence of squeezing out the fundamental freedom of the citizen. A note of caution was given in the case of *Malak Singh Vs. State of Punjab and Haryana*, AIR 1981 SC, 760. Thus evidently the police does not possess a licence to enter the names of whoever they like or dislike in the surveillance register. Ordinarily the names of persons with previous criminal record alone are entered in the surveillance register. They must be proclaimed offenders, previous convicts, or persons who have already been placed on security for good behaviour. In addition, names of persons who are reasonably believed to be habitual offenders or receivers of stolen property whether they have been convicted or not, can be categorized and entered in the surveillance register under the Police Regulation.

11. We have also noticed that the representation pursuant to a direction of this Court has very casually been rejected by the Superintendent of Police, Siddharthnagar stating therein that the provisions in Police Regulation 228 and 240 authorises police to open history-sheet. However, we have noticed that there is nothing to substantiate that the petitioner is involved in the nature of offence envisaged by Regulation

228 (A) of Police Regulation, there is not even a suspicion by any of the authorities. Admittedly, petitioner has no criminal antecedent and, therefore, rejection of the representation as well as opening of the history-sheet without even looking into requirement of Regulation 228 and 240 of the U.P. Police Regulation, the order dated 23.06.2025 can not be left to stand.

12. A close perusal of the order of the Superintendent of Police, Siddharthnagar , it transpires that while rejecting representation of the petitioner and justifying opening of the history-sheet, he has referred Police Regulation 228 (1) as well as Police Regulation 240 which are enabling provisions for opening history sheet of a person. We are conscious of the Police Regulations but the said provisions provide that history sheet can be opened only against such persons who are dacoits, burglars, cattle thieves, railway goods wagon thieves and abettors of such offence as well as certain other offences classified in Police Regulation 228. Regulation 240 enables the Police to open a history sheet also on the basis of suspicion or on conviction or acquittal.

13. In the instant case the Superintendent of Police, Siddharthnagar opened History-sheet no.18A category on the basis of sole case being Crime No.282 of 2016, under Section 3/5/7 Cow Slaughter Act. Thus, the basis of opening the history-sheet appears to be cattle theft as provided under para 228 of the Uttar Pradesh Police Regulations. Above matter is related to Cow Slaughter Act. Since

only one case has been registered against the petitioner before 8 years of the incident in the year 2016, it cannot be said that the petitioner is habitual offender of cattle theft as mentioned in Caw Slaughter Act. Para 240 of Uttar Pradesh Police Regulation provides opening of history-sheet on the basis of 'suspicion' and on the basis of conviction or acquittal, but it requires same cogent and reliable material to frame basis of reliable and reasonable suspicion.

14. We are satisfied that there was no sufficient ground to entertain a reasonable belief that surveillance was required in the case of the petitioner. There exists no evidence to support the act of opening of the history sheet No.18-A of the petitioner at Police Station Bhawaniganj, District Siddharthnagar and, therefore, it deserves to be quashed.

15. In the result, the writ petition, is allowed. The order dated 23.06.2025 passed by respondent no.3, Superintendent of Police, Siddharthnagar is quashed. The respondents are directed to close the present history sheet No. 18-A of the petitioner and not to keep surveillance on the petitioner, in pursuance of the said history-sheet.