

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

**CRIMINAL APPEAL NO. _____ OF 2026
(@ SLP(CRL.) No.9877/2026)**

GAYYUR

APPELLANT(S)

VERSUS

THE STATE OF U.P.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. The appellant herein was charged for the offences under Sections 121, 121-A, 122 and 123 of the Indian Penal Code, 1860 (for short, 'the IPC, 1860') in Sessions Trial No.820/2000 arising out of FIR No.106/2000.
3. The Trial Court, vide judgment dated 18.05.2007, was pleased to acquit the appellant for the following reasons:-

47. The Ld. Counsel of the accused persons has advanced arguments that Gayur has been stated to be a witness in respect of preparation of passport and it has been deposed that Gayur was a witness to the effect of passport preparation. In this regard, no deposition has been made on behalf of the prosecution. It is correct that Gayur has been stated to be a witness in respect of preparation of passport and such evidence has not been adduced by the prosecution and whatever the recoveries have been stated to be effect of Tamachas and cartridges from Gayur. Said trial is not pending before this Court, therefore, sufficient evidence is not available against Gayur.

49. It has been contended during cross examination on behalf of the accused persons that the police has falsely got implicated Ashfaq for wreaking vengeance against Pradhan Pati Munna he does not know Waris and Waris has not been arrested from his house and this argument is not supported by evidence and the PWs have succeeded in proving that Mohd. Waris was arrested from the residence of Ashfaq and Ashfaq was also arrested at the same time. Mohd. Waris has been residing at his residence under his assumed/concealed identity and he was involved in anti-India activities, accumulation of weapons, waging war against India and hatching conspiracy of waging war etc. and all such activities were jointly and individually were there by Mohd. Waris and Ashfaq and Ashfaq has given shelter to Mohd. Waris and Waris got hand grenades recovered from the residence of Ashfaq and pistols and cartridges were also got recovered from the residence of Ashfaq and therefore the arguments advanced during cross examination are not such as may inspire confidence.

50. On the basis of the abovesaid discussion I have come to the inference that accused persons Mohd. Waris and Ashfaq @ Nanhe have been found accused of the offence U/S 121, 121A, 122 and 123 I.P.C. Accused Gayur and Sardar Ali deserve to be acquitted of the offence U/S 121, 121A, 122 & 123 IPC for want of sufficient evidence against them. Accused persons Mohd. Waris and Ashfaq are found accused of the offence under Section 13/14 of the Foreigners Act and accused Ashfaq @ Nanhe has also been found accused of the offence U/S 25 of the

Arms Act and offence against him U/S 27 of the Arms Act does not stand sustained, therefore, he is acquitted of the charge U/S 27 of the Arms Act. Accused Mohd. Waris deserves to be acquitted of the charge U/S 3 of the Passport Act and Section 3 of the Explosive Substance Act due to technical infirmities."

4. Aggrieved, an appeal was filed by the State before the High Court in Government Appeal No.6077/2007. The High Court, vide judgment dated 05.06.2019, was pleased to confirm the order of acquittal of the Trial Court *qua* the appellant, while also observing that the issue for want of sanction cannot be faulted with. It was noted that the Trial Court, as stated, did, in fact, go into the merits of the case and found that no ground had been made out, even for maintaining one of the charges against the appellant.
5. Thereafter, the respondent obtained a sanction on 31.07.2020. On that basis, fresh proceedings were sought to be initiated against the accused person(s), including the appellant. The appellant invoked Section 482 of the Code of Criminal Procedure, 1973 (for short, the CrP.C., 1973) *inter alia*, contending that it is a case of double jeopardy. The High Court, vide impugned judgment dated 17.08.2022, was pleased to dismiss it on the ground that the earlier trial was without jurisdiction for want of sanction under Section 196 of the CrPC, 1973 and, therefore, the same having been obtained thereafter, the appellant cannot seek to interdict the

proceedings. Aggrieved by the same, the appellant is before us.

6. We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent-State.
7. This is the second round of litigation, strangely, in a criminal case, touching upon the same charges, despite the earlier round having become conclusive, *inter se* parties.
8. On a perusal of the judgment of the High Court dated 05.08.2019, which has become final, we note that notwithstanding the detailed consideration of the lack of material to establish the foundational facts against the appellant, the order of acquittal of the Trial Court was confirmed and the same has attained finality.
9. In our considered view, the impugned order of the High Court cannot be sustained in the eye of law. It is not as if the earlier proceedings of the Trial Court can be termed as *void ab initio*. In fact, the Trial Court found that there was no basis or material to come to the conclusion that the appellant committed any crime. The finding was to the effect that there was no evidence available against the appellant. That decision was put into challenge by the respondent - State and has been confirmed by the High Court, vide order dated 05.08.2019. A mere observation by the High Court, while dismissing the appeal against the State, will not give jurisdiction to the respondent-State to start all over again. The presumption of innocence in favour of the appellant gets rather strengthened

in view of the dismissal of the appeal against acquittal. At the cost of repetition, the earlier decision of the Trial Court, as confirmed by the High Court, has attained finality. Hence, initiating fresh proceedings, on the same set of facts and evidence, would certainly warrant interference, as it violates Article 20(2) of the Constitution of India, 1950.

10. To put it differently, the respondent - State having chosen to charge the appellant and, thereafter, conducted the trial, cannot contend to the contrary that the earlier decision is a nullity. In other words, had the Trial Court rendered a conviction against the appellant, the respondent before us would not have raised such a plea. Allowing the trial to continue against the appellant would amount to reviewing the order of acquittal which has attained finality, not only on the ground of want of sanction, but also on merits.
11. Though, we find that the allegations are quite serious, they *per se*, would not constitute an offence, unless supported by adequate materials. The Trial Court, on the earlier occasion, has already found total lack of evidence against the appellant.
12. In such view of the matter, we set aside the impugned judgment passed by the High Court, and consequently, the criminal proceedings in Case No. 3131/2021 arising out of FIR No. 106 of 2000, pending on the file of Judicial Magistrate, Shamli at Kairana, stands quashed insofar as the appellant is concerned.
13. The appeal stands allowed, accordingly.

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

.....J.
[M.M. SUNDRESH]

.....J.
[PRASANNA B. VARALE]

NEW DELHI;
6th OCTOBER, 2026

ITEM NO.34

COURT NO.4

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9877/2026
[Arising out of impugned final judgment and order dated 17-08-2022
in A482 No. 9473/2022 passed by the High Court of Judicature at
Allahabad]

GAYYUR

Petitioner(s)

VERSUS

THE STATE OF U.P.

Respondent(s)

Date : 06-10-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) Mr. Aarif Ali, Adv.
Mr. Pankaj Tiwari, Adv.
Mr. Mujahid Ahmad, Adv.
Mr. Chand Qureshi- 3063, AOR
Mr. Anangpal Singh, Adv.
Mr. Rishibh, Adv.
Mr. Mohd Faiz Ahmed, Adv.
Mr. Hriday Kathuria, Adv.
Ms. Nuzhat Nabi, Adv.

For Respondent(s) Mr. Vishwa Pal Singh, AOR
Ms. Prerna Swarup, Adv.
Mr. Srikant Singh, Adv.
Mr. Srajan Shankar Kulshreshtha, Adv.
Ms. Annpurna Goel, Adv.
Ms. Soniya Sharma, Adv.
Mr. Amit Tyagi, Adv.
Mr. Bhagat Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

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

(SWETA BALODI)

ASTT. REGISTRAR-cum-PS

(POONAM VAID)

ASSISTANT REGISTRAR

(Signed order is placed on the file)