



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2851 of 1983

Satish And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)

: K. Sahai

Counsel for Respondent(s)

: A.G.A.

Court No. - 44

HON'BLE J.J. MUNIR, J.

HON'BLE SANJIV KUMAR, J.

On 02.07.2025, the following order was passed:

"1. List revised. None appears for the appellants.

2. Counsel for the appellants is dead. Earlier, notices were issued to the appellants to engage another counsel. Those notices have been served on appellant Bhupat (in Criminal Appeal No. 2856 of 1983) and appellant Shiv Kumar (in Criminal Appeal No. 2851 of 1983). Also, it has been reported that the appellant Rakesh and Vijay (in Criminal Appeal No 2856 of 1983) are dead. However, the living status of the other appellants Satish and Ashok (in Criminal Appeal No. 2851 of 1983) and appellant Vikram (in Criminal Appeal No. 2862 of 1983) is not known. Also, it is noted that the living status of the surviving appellant was ascertained in the year 2022. More than 2 years have passed since then.

3. Accordingly, issue fresh notice to the appellants Satish, Shiv Kumar and Ashok (in Criminal Appeal No. 2851 of 1983); to the appellant Bhupat (in Criminal Appeal No. 2856 of 1983) and to the appellant Vikram (in Criminal Appeal No. 2862 of 1983).

4. Also, learned Chief Judicial Magistrate may report the living status of those appellants within 15 days.

5. Office to make strict compliance of this order.

6. List again on 30 July 2025 in **top ten cases**. It is made clear, subject to service being complete, appeals may be proceeded on the next date, without further adjournments."

In compliance, the office submitted a report dated 29.07.2025, which reads:

" Office Report

In compliance of Hon'ble court's order dated 2.07.25, the C.J.M. Saharanpur, vide letter dated 23.07.25 (flag'B') has reported that notices have been forwarded to the C.J.M. Haridwar es appellants are residing under his Jurisdiction.

No further report has been received.

The case in put up for hearing."

On 30.07.2025, the Court passed the following order:

"1. Compliance report is awaited.

2. List on 13.08.2025.

3. Office to ensure due compliance by the next date."

On 13.08.2025, office put in the following report:

" Office Report

In compliance of Hon'ble Court's order dated 30/7/25, a letter (Reminder) (flag'C') has been sent to the C.J.M. concerned through speed post and Email.

No compliance report has been received as yet.

The case is put up for hearing."

Again, when the matter was listed before the Court, the following order was made on 13.08.2025:

"1. Compliance report is awaited.

2. List this case again on 27.08.2025.

3. If compliance remains pending, detailed report would be submitted by the office as to steps taken."

On 26.08.2025, the office put in the following report:

" Office Report

In compliance of Hon'ble Court's order dated 13.08.2025, a letter no. 43326 and letter no. 43327 (Flag 'D') have been sent to the C.J.M. Saharanpur and the C.J.M. Haridwar (U.K.).

No report has been received.

The case is put up for hearing."

On 27.08.2025, the Court passed the following order:

"1. List revised.

2. None present to press the appeal. Learned A.G.A. is present.

3. Despite three earlier orders, passed over a period of almost two months, living status of the surviving appellants is not known.

4. Issue bailable warrants to the appellant-Bhupat (in Criminal Appeal No. 2856 of 1983), appellants-Satish, Shiv Kumar and Ashok (in Criminal Appeal No. 2851 of 1983) and appellant-Vikram (in Criminal Appeal No. 2862 of 1983), executable by 10.09.2025 through CJM, Saharanpur.

5. Compliance report may be submitted by CJM, Saharanpur before the next date of listing.

6. List this case again on 24.09.2025.

7. In any case the Superintendent of Police, Saharanpur may submit living status report of appellants-Bhupat, Satish, Shiv Kumar, Ashok and Vikram through CJM, Saharanpur by 10.09.2025.

8. Let a copy of this order be made available to learned AGA for onward communication and due compliance.

9. Office to correct the computerised records as may reflect the district description Saharanpur in all appeals."

On 23.09.2025, the office put in a report, which reads:

" Office Report

In compliance of Hon'ble Court's order dated 27.08.25, the C.J.M. Haridwar (U.K.), vide letter dated 11.09.25 no. 555 (flag 'D2') and dt. 11.09.25 no. 597 (Flag 'E') has reported that appellants in CRLA 2851/83, CRLA- 2856/83 and CRLA 2802/83, could not be traced out as their names and addresses are incomplete.

The case if put up for hearing."

On 24.09.2025, the Court passed the following order:

"1. Compliance has not yet been made.

2. List again on 15th October, 2025.

3. Office to communicate the complete address of the appellants to the learned C.J.M. within one week."

Office has again put in an inconsequential report dated 14.10.2025, which reads:

" Office Report

In compliance of Hon'ble Court's order dated 24.09.25 a letter dated 30.09.25 No. 54732 at (flag 'F') has been sent to the C.J.M Saharanpur for compliance, but no compliance report has been received as yet.

The case is put up for hearing."

We have perused the office report dated 23.09.2025 in particular, which shows that the appellants in Criminal Appeal Nos. 2851 of 1983, 2856 of 1983 and 2862 of 1983 could not be traced out as their names and

addresses are incomplete.

Prima facie the Senior Superintendent of Police, Saharanpur has been negligent in executing the bailable warrants of arrest issued against the appellants and the notices issued earlier. The report, that the appellants could not be traced out, as their names and addresses are incomplete, shows dereliction of duty on the part of the Police:

The Police is not a postal agency to visit a man against whom process, coercive or non-coercive is issued by the Criminal Court at his specified address. Once a coercive process is issued, particularly a warrant, whether bailable or non-bailable, and for that matter, even a notice, which is entrusted to the Police for service or execution, as the case may be, it is the duty of the Police to trace out the man in whichever part of the country he is available or hiding. The Police can return a warrant, bailable or non-bailable with only two kinds of reports;

- (1) The man required to be arrested, pursuant to the warrant, is dead, and, therefore, beyond all mortal jurisdictions;
- (2) He has fled the country, leaving Indian shores, about which they must have some evidence annexed to the report.

In no other case, can a warrant of arrest be returned by the Police unexecuted.

Let non-bailable warrants of arrests be issued against the appellants in **Criminal Appeal Nos. 2851 of 1983, 2856 of 1983 and 2862 of 1983** returnable on **29.10.2025** through the learned Chief Judicial Magistrate, Saharanpur which shall be immediately entrusted to the Senior Superintendent of Police, Saharanpur for execution. The Senior Superintendent of Police, Saharanpur will deploy a team of Police officials to execute the warrants of arrest and produce the appellants, unless one of the two contingencies indicated exist.

Apart from this, the learned Chief Judicial Magistrate, Saharanpur and the Senior Superintendent of Police, Saharanpur will file their personal affidavits showing cause about the laxity in execution of the notices and bailable warrants issued earlier in the present appeal and the connected appeals, which relate to the year 1983.

We may add a word of counsel and admonition. It has become intellectual pastime to criticize Courts for delays and hold seminars on the issue. Delays have to be battled by Courts on a day to day basis and in that endeavour of ours, unflinching compliance by the Police is required, when it comes to service of process on parties and witnesses. If witnesses and parties cannot be served and the excuses given by the Police are engagement with law and order problems, VIP duties and the like, or simply, a non-response, delays in holding of criminal trials or the hearing of the appeals is an ill that can never be remedied.

List for **orders** on **29.10.2025**.

Let this order be communicated to the learned Sessions Judge, Saharanpur, the learned Chief Judicial Magistrate, Saharanpur and the Senior Superintendent of Police, Saharanpur by the Registrar (Compliance) **within 24 hours**.

The necessary non-bailable warrants of arrest shall also be forwarded by the Registrar (Compliance).

The Registrar (Compliance) is also directed to communicate this order to the Additional Chief Secretary (Home), Government of U.P., Lucknow through the learned Chief Judicial Magistrate, Lucknow, also **within 24 hours**.

(Sanjiv Kumar,J.) (J.J. Munir,J.)

October 15, 2025

Deepak