

**Court No. - 49**

**Case :-** CRIMINAL APPEAL No. - 2043 of 1986

**Appellant :-** Virendra And Others

**Respondent :-** State

**Counsel for Appellant :-** K.M. Mishra

**Counsel for Respondent :-** A.G.A.

**Hon'ble Ved Prakash Vaish,J.**

Sri K.M. Mishra, learned counsel for the appellants and Sri R.K. Srivastava, learned A.G.A. for the State are present.

On perusal of the file, it is revealed that the appeal is pending since 1986.

Learned counsel for the appellants submits that the appellant no.4 has died.

As per office report dated 3.11.2018, appellant no.4, Phool Sahai has died and death report is on record.

A report of C.J.M., Etawah dated 28.3.2018 is on record. In the said report, it is stated that appellant no.4, Phool Sahai has died on 26.1.2007. The said report is accompanied by statements of S.I. Pramod Kumar, P.S. Kotwali Auraiya, Mulayam Singh, Village Pradhan and Ramesh son of the appellant. All the aforesaid persons have stated in their statements that appellant no.4, Phool Sahai has died about twenty years ago.

From perusal of the report of the C.J.M. dated 28.3.2018 which is on the record of this appeal, it appears that appellant no.4, Phool Sahai has died about twenty years ago.

Learned A.G.A. has submitted that in view of the report of C.J.M. dated 28.3.2018, this appeal is liable to be dismissed as abated in respect of the appellant no.4, Phool Sahai.

In view of the submission made by learned A.G.A. and perusal of the report of C.J.M., the appeal in respect of the appellant no.4, Phool Sahai is dismissed as abated.

Learned counsel for the appellants seeks adjournment to prepare the matter.

Lower court has not been received.

The order passed today be communicated to the District Judge concerned through Fax, Email as well as by registered and ordinary process for sending the lower court record.

As requested, list this case on 4.1.2019.

**(V.P. Vaish, J.)**

**Order Date :-** 20.11.2018

Vivek Kr.