

Court No. - 39

Case :- CRIMINAL APPEAL No. - 2276 of 1984

Appellant :- Brahma Nand

Respondent :- State Of U.P.

Counsel for Appellant :- Lalji Sahai Srivastava

Counsel for Respondent :- D.G.A.

Hon'ble B. Amit Sthalekar,J.

Hon'ble Vivek Kumar Singh,J.

List has been revised. No one appears on behalf of the appellant.

It is informed that Shri Lalji Sahai Srivastava, learned counsel for the appellant has expired. Notice was served upon the appellant through C.J.M. Shahjahanpur but even after that no counsel is present to argue the case on behalf of the appellant.

This is an appeal of the year 1984. There is nothing on record to show as to whether the appellant is alive or not.

Let notices be issued to the appellant, which shall be served through C.J.M. Shahjahanpur. The C.J.M. Shahjahanpur shall also submit his report by 6.8.2018 whether the appellant is alive or not and if he is alive whether the notices have been served upon him or not. In case the appellant is not alive a report to this effect shall also be submitted by the C.J.M. Shahjahanpur by the next date.

The said report shall be sent by the C.J.M. Shahjahanpur strictly in terms of the Circular Letter No. 15/VIIIb-119 dated 19.4.2005, which has been issued by the High Court to all the District Judges, Subordinate to the High Court of Judicature at Allahabad in compliance of the directions given by a Division Bench of this Court in Criminal Appeal No. 2408 of 1981 (Ram Chand Vs. State). The directions given by the Division Bench read as under:

"It has come to our notice that whenever it is reported that any of the accused appellant or revisionist has died and report regarding verification of the death is called for from the CJM concerned the reports submitted in most of the cases are vague and enigmatic based on the reports of head constable and that too not within the time specified by the court. It is not proper.

Henceforth Sessions Judges should ensure and emphasize upon the Chief Judicial Magistrates that in case an accused appellant whose death is required to be verified is either murdered or killed in police encounter the report of the police

officer not below the rank of sub-inspector alongwith particulars of the crime countersigned by the station officer should be submitted and Chief Judicial Magistrate concerned should record the statement of the sub-inspector concerned on oath who shall prove the GD entry regarding registration of the crime and get its true copy proved and failed.

In other cases CJM concerned should ensure that fact regarding death of any accused appellant should be enquired by any police officer not below the rank of sub-inspector posted at the police station concerned who himself shall enquire into the matter carefully and promptly and submit his report under his signatures countersigned by the station officer concerned. After receiving the police report in the court CJM concerned shall record statement of the sub-inspector on oath who enquired into the matter in addition to the statements of any of the witnesses having personal knowledge of the matter. And then CJM concerned after his subjective satisfaction shall submit his report alongwith the statements of witnesses recorded by him and the report submitted by the police alongwith the papers concerned to this court within the time specified."

List with the fresh office report alongwith report of the C.J.M. Shahjahanpur on **6.8.2018**.

Order Date :- 21.7.2018

o.k.