

Court No. - 49

Criminal Misc. Delay Condonation Application No. 1 of 2018

Along with

Criminal Misc. Recall Application No. 2 of 2018

And

Criminal Misc. Delay Condonation Application No. 3 of 2019

Along with

Criminal Misc. Recall Application No. 4 of 2019

IN

Case :- CRIMINAL APPEAL No. - 2998 of 1986

Appellant :- Ram Dayal & others

Respondent :- State Of U.P.

Counsel for Appellant :- V.S. Singh, R.K. Mishra, Ravikant Shukla

Counsel for Respondent :- A.G.A.

Hon'ble Krishna Pratap Singh, J.

Heard Mr. R.K. Mishra, learned counsel for the appellant No. 1 and Mr. Vishwajeet Singh, learned counsel for appellant No. 3 and learned AGA for the State on the recall application.

These two recall applications along with delay condonation application have been moved on behalf of appellant No. 1 and 3, namely, Ram Dayal and Kalloo against the order dated 20.11.2018, whereby non-bailable warrants have been issued against the appellants.

Learned counsel for the appellants submits that this appeal was listed for the first time on 20.11.2018 after the year 1986. It is further submitted that due to mistake the case could not be marked and no one had appeared on behalf of the appellants to argue the appeal and as a result thereof, non-bailable warrants have been issued against the appellants. In this appeal, the appellants were granted bail by this Court vide order dated 20.11.1986 and they have never misused the liberty of bail.

Cause shown is sufficient.

Delay, if any, is condoned.

The recall applications along with delay condonation applications are allowed.

The order dated 20.11.2018 is hereby recalled in respect of appellant Nos. 1 and 3, namely, Ram Dayal and Kalloo, if the same has not already been executed.

Learned counsel for the appellants states that appellant No. 2, **Ram Bhajan** is no more.

The learned C.J.M. concerned is directed to submit a report with regard to living status of appellant No. 2, Ram Bhajan in the light of *Circular Letters No.15/2005, VIII-119 April 19, 2005, and 04/admin G-II dated Allahabad 18.1.2017*, which provides that in the event of death of the appellant, same is to be authenticated by the statement of the informant or his legal heirs, if any, whose name and address may be ascertained from the L.C.R. which are available before the court below, which too shall be transmitted to this Court only in the event the appellant is alive, failing which the Court may be constrained to take a serious view against the official in default.

Office to ensure communication of this order forthwith through registered post as well as through other speedier option available to the judgeship concerned for immediate compliance of the order.

List after eight weeks.

Order Date :- 25.2.2019

Sazia