

VERDICTUM.IN

Court No. - 2

Case :- CRIMINAL APPEAL No. - 1817 of 2003

Appellant :- Raj Narain @ Ram For Appearance

Respondent :- State of U.P.

Counsel for Appellant :- O.P.Misra,C.D. Maurya

Counsel for Respondent :- Govt.Advocate

Hon'ble Rajan Roy,J.

Shri Anjani Kumar Srivastava, Advocate has filed photocopy of his vakalatnama on behalf of appellant, which in the peculiar facts of this case, is taken on record. He is on the panel of Legal Aid Services Authority of the High Court and has been assigned this case vide order dated 23.06.2023 which is also taken on record.

Shri Anjani Kumar Srivastava, learned counsel for the appellant has filed an application for release of the applicant/appellant which is also taken on record. The registry is directed to give a number to the said application.

Heard Shri Anjani Kumar Srivastava, learned counsel for the appellant and Dr. V.K. Singh, learned Government Advocate for the State.

This appeal has been placed before this Bench which has been specially constituted by order of Hon'ble the Chief Justice dated 23.06.2023.

The Court has been informed that the appellant has already completed the period of his incarceration/ sentence as awarded by the trial Court vide judgment dated 08.10.2003 which was 7 years rigorous imprisonment and on completion of the said sentence, was released from Central Jail, Bareilly on 14.03.2009, however, this fact could not be brought to the notice of this Court in this appeal. Consequently, when the appeal came up for hearing on 15.11.2022 the following order was passed:-

"Case called out.

None turned up on behalf of the appellant to press this appeal.

Learned Additional Government Advocate for the State respondent is present.

It appears from the office report dated 02.07.2014 that appellant has sold his house and moved somewhere else.

Issue fresh non-bailable warrant as well as process under Sections 82 &

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83 Cr.P.C. against the appellant and also issue notice under Section 446 Cr.P.C. against the sureties of the appellant, to be executed through the Chief Judicial Magistrate, concerned who shall submit compliance report within four weeks from today.

Learned C.J.M. may take help of S.S.P/S.P. concerned for the aforesaid purpose.

Office is directed to transmit the copy of the bail bonds and complete details of the appellant to the concerned Court below at the earlier.

Let the matter be listed after four weeks."

By the aforesaid order dated 15.11.2022 Non-bailable Warrant was issued and in pursuance thereof the appellant, who had already undergone the sentence, was again arrested and sent to Jail. This happened on account of absence of requisite information about the sentence already having been undergone by the appellant.

It is said that consequent to the aforesaid order the appellant is incarcerating in District Jail, Lakhimpur Kheri.

In view of the aforesaid circumstances, this Court exercises its power to recall the order dated 15.11.2022. Consequently, all actions taken in pursuance thereof stand nullified and the appellant, if he is in Jail, shall be released immediately.

The Senior Registrar of this Court at Lucknow shall communicate this order today itself to the concerned Jail Authorities for immediate release of the appellant.

Dr. V.K. Singh, learned Government Advocate for the State shall also communicate this order to the concerned immediately for compliance.

The appeal shall now come up for hearing in the month of August, 2023.

(Rajan Roy,J.)

Order Date :- 23.6.2023

R.K.P.