Yogendra Mishra Vs State of Uttar Pradesh and Shambhoo Nath Pandey

Criminal Miscellaneous Writ Petition No. 7999 of 2003

Court: Allahabad High Court

Date of Decision: March 29, 2004

Acts Referred:
Penal Code, 1860 (IPC) â€" Section 306

Hon'ble Judges: R.C. Deepak, J

Bench: Single Bench

Advocate: G.S. Chaturvedi and Ripu Daman Singh, for the Appellant; A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

R.C. Deepak, J.
The present criminal misc. writ petition has been filed on behalf of Yogendra Mishra S/o Sri Raj Narain Mishra, resident

of Amrit Pali, Police Station Kotwali, District Ballia with a prayer to quash the orders dated 8.9.2003 and 26.4.1997 passed by the court below

or to issue a writ, order or direction in the nature of mandamus commanding the learned Additional Sessions Judge, Ballia to dispose of the entire

proceeding on merit on the basis of material available on the record or pass any other order which this Hon"ble Court deems fit and proper in the

interest of justice.

2. I have heard Sri G.S. Chaturvedi, learned Senior Counsel assisted by Sri Ripu Daman Singh, learned counsel for the petitioner, learned

Additional Government Advocate for the State and perused the record.

3. The petitioner/accused did not put in appearance in the court right from the recording of the statements of the prosecution witnesses till the date

of moving the application for being discharged or even till the filing of the revision against the rejection of the application by the learned Magistrate

vide his order dated 26.4.1997. Not only this but he did not put in appearance even in the session court in connection with the hearing/disposal of

the revision. In other words the petitioner/accused did not put in appearance at all either in the court of Magistrate or the Sessions Court, despite

coercive measures were adopted by the court concerned for his appearance.

4. It appears to be quite strange. astonishing and surprising why he did so. This is so because the record does not show any reason whatever for

his absence in the court below, therefore, learned counsel for the petitioner has not expressed even a word in this connection in the course of his

argument. This probably shows because there does not appear to be any provision of law under which the petitioner/accused could have done so,

this very reason impells me to dismiss the petition.

5. The petition is accordingly dismissed.

6. However, the petitioner is directed to put in appearance in the court below to take resort to relevant provision of law in connection with case

crime No. 140 of 1993 (Case No. 3755 of 1995), u/s 306 IPC, Police Station Kotwali, District Ballia pending therein.

7. Office is directed to send back the trial court record and a copy of this order forthwith for proceeding in accordance with law.