

**(2004) 03 AHC CK 0235**

**Allahabad High Court**

**Case No:** Criminal Miscellaneous Writ Petition No. 7999 of 2003

Yogendra Mishra

APPELLANT

Vs

State of Uttar Pradesh and  
Shambhoo Nath Pandey

RESPONDENT

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**Date of Decision:** March 29, 2004

**Acts Referred:**

- Penal Code, 1860 (IPC) - 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

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### **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.