



2026:AHC:4511-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 841 of 1985

Suresh Kumar

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	P.N. Mishra, Raghuvansh Misra, Rahul Misra
Counsel for Respondent(s)	:	A.G.A.

Court No. - 46

HON'BLE SIDDHARTH, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Sri Jai Deep Mishra holding brief of Sri Raghuvansh Mishra, learned counsel for the appellant as well as learned A.G.A.

2. This appeal is directed against the judgement and order dated 25.03.1985 passed by 2nd Additional Sessions Judge, Jhansi in S. T. No. 220 of 1982 (State Vs. Suresh Kumar), convicting the appellant under Section 302 I.P.C. and sentencing him to life imprisonment.

3. On 20.08.2025, this court finding that record of the trial court is missing, passed the following order:-

"1. Present is the amongst oldest appeal pending before this Court. Office report dated 19.08.2025 indicates that the lower court record has not been received. It is reported to be missing.

2. List this case again after two weeks.

3. Let proper report of the learned District Judge, Jhansi be submitted as to all efforts that may have been made to trace out the record and the enquiry that may have been instituted against the erring officials.

4. Let a copy of this order be made available to the Registrar (Criminal) and Registrar (Compliance) for effective steps to be taken pursuant to this order. "

4. Thereafter, another order dated 10.09.2025 has been passed which is quoted as under:-

"1. In compliance to the last order, the learned District Judge, Jhansi has reported

that the trial court record has remained missing from at least 2018. The report further reveals that no enquiry had been initiated, till date.

2. Last, it has been disclosed that steps have been taken to institute departmental enquiry.

3. List this case again on 29.10.2025, with further report from the learned District Judge, Jhansi. Also, that report would indicate what steps may have been taken to reconstruct the record. If reconstruction is possible, it is expected that that record would be received by the next date.

4. Last, the report would further indicate how many other similar records are missing and how many enquiries have been instituted with respect to such missing records as also fate of such enquiries.

5. Let a copy of this order be communicated to the District Judge, Jhansi through Registrar (Compliance)."

5. In compliance of the aforesaid orders of this Court, a report has been received from the District Judge, Jhansi dated 18.10.2025 wherein he has submitted that no document regarding aforesaid trial are available, therefore, there is no possibility of reconstruction of record. He has further informed that in no other case, missing of the record is brought to his notice so that any enquiry may be initiated. In case, any such case comes his knowledge, he shall initiate appropriate proceeding.

6. We find that incident in this case took place on 16.05.1982 and the trial has been concluded by the judgement and order dated 25.03.1985 and there is remote possibility that all the witnesses may be alive, whether of fact or formal witnesses and even if alive would appear in witness box, therefore, direction to conduct the re-trial at this belated stage, after more than 43 years of the incident does not appears to be feasible. Accordingly, we have no option but to set aside the judgement of trial Court and acquit the appellant of all the charges.

7. Accordingly, the appeal is allowed.

8. Let a copy of this order be communicated to the District & Sessions Judge, Jhansi within a period of two weeks.

January 8, 2026

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(Jai Krishna Upadhyay,J.) (Siddharth,J.)