

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1377 OF 2009
(Arising out of S.L.P. (Crl.) No.6631 of 2006)

Abhimanyu Kumar (Dead) By L.R. ...Appellant(s)

Versus

Surendra & Anr. ...Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

By this appeal, challenge has made to order of the High Court dated 5th October, 2006, whereby the Surendra, Respondent No.1 herein [hereinafter referred to as "respondent"] has been granted bail in F.I.R. No.98/2006, P.S. Muradnagar, District Ghaziabad, Uttar Pradesh.

Notice was issued in this case way back on 1st December, 2006, but the same could not be served as the respondent was apparently absconding. Orders were thereafter issued that a proclamation under Sections 82 and 83 of the Code of Criminal Procedure, 1973, be issued and this proclamation has, in fact, been issued. Despite this proclamation, no counsel has put in appearance on behalf of the respondent.

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Several arguments have been raised by learned counsel for the appellant with respect to the merits of the controversy but, in the light of the fact that they pertain to the merits of the case, we are not inclined to go into the findings recorded one way or the other. Learned counsel further has put on record by way of Criminal Miscellaneous Petition No.7182 of 2007 an application supported by an affidavit and appending thereto F.I.R. No.241/2007, P.S. Muradnagar, District Ghaziabad, Uttar Pradesh, whereby it appears that after the respondent had been released on bail he, along with others, has been involved in another case of murder. In this view of the matter, we set aside the impugned order of the High Court dated 5th October, 2006, and direct that the respondent shall be taken into custody forthwith.

The appeal is allowed in the above terms.

.....J.
[HARJIT SINGH BEDI]

.....J.
[J.M. PANCHAL]

New Delhi,
July 31, 2009.