OFFICE OF THE DISTRICT JUDGE, PRAYAGRAJ.

ADMIN. ORDER NO. 226 **Dated: March 25,2026**

ORDER

While enclosing herewith a pdf copy of **Judgment/Order dated 11.12.2025** passed by **Hon'ble High Court of Judicature at Allahabad in Criminal Revision No. 7975 of 2025 titled Abhinat Kumar Gupta Vs. State of U. P. and Another** vide Hon'ble High Court's Letter No. **3686/Admin. G-II Dated 24.03.2026**, it has been communicated that during the course of hearing of aforesaid case, Hon'ble Court vide order dated **11.12.2025** has discussed the issue regarding power of the appellate Court/Sessions Court to stay and/or suspend and to keep the order in abeyance or to extend the time to surrender to the accused so as to enable the accused to file revision application.

II. In compliance of Hon'ble Court's above directions, following order is being passed with immediate effect:

(a) The System Officer is directed to provide a soft/pdf copy of **Order/judgment dated 11.12.2025** passed by the **Hon'ble High Court** in the aforementioned Criminal Revision as well as Hon'ble High Court's Letter No. **3686/Admin. G-II Dated 24.03.2026** to all the Judicial Officers working under control of undersigned for information & strict compliance in letter & spirit.

(b) A hard-copy of above mentioned Order dated **11.12.2025** passed by the **Hon'ble High Court** in the aforementioned Criminal Revision as well as Hon'ble High Court's Letter No. **3686/Admin. G-II Dated 24.03.2026** be also circulated among all the Judicial Officers working under control of undersigned for information & strict compliance in letter & spirit.

(c) In compliance of order/judgement dated 12.08.2025 passed by Hon'ble High Court in Crl. Misc. Application u/s 528 BNSS No. 6400 of 2025 titled Smt. Bacchi Devi Vs State of UP And Another, a meeting of all Judicial Officers of the Judgeship is convened on **02.04.2026** at **4.35 PM**, in the **Meeting Hall,** situated at the II-Floor of Newly constructed 24-Court Room Building of District Court Prayagraj for discussion and deliberation regarding compliance of **Judgement dated 11.12.2025** passed by **Hon'ble High Court in Criminal Revision No. 7975 of 2025 titled Abhinat Kumar Gupta Vs. State of U. P. and Another,** All the Judicial Officers of the Judgeship are directed to participate in the said meeting.

Inform all concerned for strict compliance.

25.3.2026

(**Satya Prakash Tripathi**)
District & Sessions Judge
Prayagraj.

Dated: March 25,2026

Through e-mail

From,

Manjeet Singh Sheoran, HJS
Registrar General
High Court of Judicature at,
Allahabad

To,

All the District and Sessions Judges/OSD
All the Principal Judges, Family Courts
All the Presiding Officers of Commercial Courts, MACTs & LARRAs
State of Uttar Pradesh

No: 3686 **/Admin G-II Dated** 24/03**/2026**

Sub: Compliance of the order dated 11.12.2025 passed by this Hon'ble Court in Criminal Revision No. 7975 of 2025, Abhinat Kumar Gupta Vs State of U.P. and Another.

Madam/Sir,

During the course of hearing of aforesaid case, this Hon'ble Court vide order dated **11.12.2025 (pdf copy enclosed)** has discussed the issue regarding power of the appellate Court/ Sessions Court to stay and/or suspend and to keep the order in abeyance or to extend the time to surrender to the accused so as to enable the accused to file revision application. Accordingly, Hon'ble Court has issued following directions, in the matter:-

> ***"….. court of Sessions can not give any time for surrendering or any other order or interim bail. The moment the Sessions court dismisses the appeal, it follows that the accused whose appeal has been dismissed has to surrender to serve out the sentence imposed upon him. The judgment of conviction and sentence has to be enforced by the executing court as per the provisions of section 418 Cr.P.C., corresponding section 458 of B.N.S.S. The appellate court became functus officio and seized with any power to exercise post disposal of the appeal. It is only the High Court which can pass appropriate orders in this regard."***

In this regard, I am directed by Hon'ble Court to send the **pdf** copy of the aforesaid order dated **11.12.2025** passed by Hon'ble Court to your goodself with the request to place the same in monthly meeting as well as in the meetings of continuous learning programme for awareness of all the learned judicial officers of your judgeship.

Encl:- As above

With Regards,

Yours faithfully,

23.3.26

Registrar General

No. /Admin G-II Dated /2026

copy to **The Director, Judicial Training and Research Institute,** U.P., Lucknow for information.

Registrar General

2025:AHC:223121

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7975 of 2025

Abhinat Kumar Gupta

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Jitendra Narayan Tripathi
Counsel for Opposite Party(s)	:	G.A., Rewti Raman Patel

Court No. - 91

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the revisionist, learned counsel for the opposite party no. 2 and learned A.G.A. for the State.

2. Learned counsel for the revisionist has preferred the present criminal revision against two concurrent judgments of the conviction and sentence passed by the trial court and appellate court, respectively. The revisionist, namely, Abhinat Kumar Gupta had been convicted and sentenced with a fine of Rs. 20,00,000/- (Twenty Lacs) and in default of payment of fine to undergo simple imprisonment of four months vide judgment and order dated 14.07.2025 passed by the learned Additional Chief Judicial Magistrate, Kannauj, in Complaint Case No. 67 of 2018 (Jitendra Kumar Versus Abhinat Kumar Gupta) under section 138 of Negotiable Instrument Act, Police Station Gursahayganj, District Kannauj. The revisionist had challenged the said order dated 14.07.2025 before the learned Sessions Judge, Kannauj, in Criminal Appeal No. 75 of 2025 (Abhinat Kumar Gupta Versus State of U.P. and another) which was dismissed on merits vide order dated 23.09.2025 and the judgment and sentence of the Additional Chief Judicial Magistrate, Kannauj, dated 14.07.2025 was upheld. Thereafter without surrendering and complying of both the concurrent conviction and sentences order, the revisionist has preferred the present criminal revision before this Court without surrendering before the trial court.

3. Learned counsel for the revisionist has submitted that the revisionist has not been convicted for any imprisonment. He has been imposed fine only. As per Section 138 of Negotiable Instrument Act, 1881, ...be punished with imprisonment for a term which may be extended to two years, or with fine

which may extend to twice the amount of the cheque, or with both. Learned counsel for the revisionist has submitted that he has not been imprisonment for any period but he has been imposed only the fine, hence neither his surrender is mandatory nor any exemption is required from this Court. Hence, neither he has surrendered nor he has filed any application for the exemption.

4. The judgment of the criminal court is having two parts (i) conviction and then (ii) sentence. In the said matter, the learned Additional Chief Judicial Magistrate, Kannauj, in Complaint Case No. 67 of 2018, under section 138 of N.I. Act (Jitendra Kumar Versus Abhinat Kumar Gupta) passed the order of conviction on 14.07.2025. Thereafter, the file was fixed for hearing on sentence then after hearing on sentence, the sentence was passed on 14.07.2025. Though, he was not awarded any sentence of imprisonment but sentence of fine of Rs. 20,00,000/- (Twenty Lacs) has been passed. The revisionist has challenged the said order before the learned Sessions Judge, Kannauj, in Criminal Appeal No. 75 of 2025 (Abhinat Kumar Gupta Versus State of U.P. and Jitendra Kumar). The said appeal was dismissed on 23.09.2025 by learned Sessions Judge, Kannauj and the judgment and sentence of the learned Additional Chief Judicial Magistrate, Kannauj, dated 14.07.2025 was upheld. The revisionist has been sentenced for fine of Rs. 20,00,000/- (Twenty Lacs) and in default of the fine, he shall undergo four months simple imprisonment. Hence, it is mandatory for the revisionist to surrender before the learned Magistrate/executing court in accordance with section 418 Cr.P.C., corresponding section 458 B.N.S.S. for compliance of the conviction and sentence passed by two courts concurrently. The submission made by learned counsel for the revisionist is hereby rejected.

5. Learned counsel for the opposite party no. 2 and learned A.G.A. for the State have opposed the revision by contending that revisionist has been convicted and sentenced by the two concurrent judgments, hence his criminal revision is not maintainable without surrendering before the trial court.

6. The judgment passed by this Court in **Criminal Revision No. 3557 of 2024 (Dharamveer Singh Vs. State of U.P. and another)** wherein in the case of under Section 138 of N.I. Act after concurrent judgment of trial court and appellate court, the appellate court has further directed to the appellant to surrender before the trial court within 15 days. This Court had passed a

detailed order and held in paragraph 17 that a convict cannot seek exemption from surrender from this Court in revision after dismissal of his appeal against conviction and sentence as a matter of right and the prayer for exemption from surrender will be dealt with on cases to case basis.

7. This Court in **Praveen Kumar Agarwal Vs. State of U.P. and 2 others passed in Criminal Revision No. 6045 of 2024 2025 reported in 2025 0 Supreme Court (All) 73**, wherein this Court has specifically dealt that matter. The paragraph nos. 32, 33, 34, 35, 36 & 37 of the judgment are as follows:

> *"32. Now, this Court proceeds to consider the purport of Rule 2 and Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952 in the matter of criminal revision under Section 397 Cr.P.C. read with Section 401 Cr.P.C., in the light of the aforesaid judgments rendered by the Hon'ble Supreme Court and the High Court of Madhya Pradesh at Indore. It is apparent that Sections 235, 248 and 353 Cr.P.C. categorically provide that on conviction of an accused, he has to surrender before the court concerned and in his presence, the court would take decision in respect of the sentence. If the provisions made in the different sections of the Code of Criminal Procedure are considered together, it is patently manifest that after conviction, it is obligatory on the convict to surrender before the trial court and if he has not surrendered, it is duty of the court concerned to ensure the surrender of the convict before it.*
>
> *33. The Allahabad High Court had framed rules known as Allahabad High Court Rules, 1952. Rule 2 read with Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952 categorically provide that a convict should file a certificate along with the criminal revision certifying that, either he was not on bail or if he was on bail, he had surrendered before it and once the said certificate is not accompanied with the revision, it would not be in order and would be liable to be rejected by the High Court. It is noteworthy that the rule making authority in Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952 had intentionally used the words shall also contain a certificate thereby to make the requirements under the rule mandatory for the revisionist meaning thereby that unless the convict, while filing criminal revision under Section 397 Cr.P.C. read with Section 401 Cr.P.C. gives a certificate that he had surrendered, the criminal revision would not be in order and would not be entertained by the High Court. However, if Rule 2 is read with Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952, that leaves the scope for filing an application seeking exemption from surrender by the revisionist on the*

basis of some extraordinary circumstances and if the said exemption is prayed for, the High Court can take into consideration the said application seeking exemption and can pass necessary order.

34. Now coming to the facts of the case in hand, it is apparent from the record that the revisionist after his conviction by the trial court has not surrendered and even during pendency of his appeal before the appellate court, he did not surrender. The revisionist, while filing the instant criminal revision under Section 397 Cr.P.C. read with Section 401 Cr.P.C., has not annexed the certificate as required under Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952 that he has surrendered therefore, the instant criminal revision is not in order and as such, in view of the provisions made in Rule 2 of Chapter XVIII of Part III of the Rules of 1952, the instant criminal revision cannot be entertained and is liable to be rejected.

35. It is also noteworthy that once the revisionist, while filing the instant criminal revision, has not sought exemption from his surrender and has also not narrated the circumstances in which he is not in a position to surrender, there is no occasion for this Court to venture into the issue as to whether the revisionist can be exempted from surrender.

36. In view of the aforesaid facts and circumstances, particularly keeping in view the provisions of Rule 2 and Rule 3(4) of Chapter XVIII of Part III of the Rules of 1952 and further keeping in view that the remedy of revision provided under Section 397 Cr.P.C. read with Section 401 Cr.P.C. is a discretionary remedy, this Court declines to exercise its discretion to entertain this revision.

37. In view of the aforesaid reasons, this revision cannot be entertained and is hereby dismissed."

8. The Hon'ble Apex Court in **Special Leave Petition (Criminal) Diary No. 20900 of 2024 (Daulat Singh Vs. The State of Madhya Pradesh) dated 30.7.2024**. The Hon'ble Apex Court has held in paragraph nos. 15, 16, 17, 18 & 19 which are as follows:

"15. We do not, therefore, consider it appropriate to accept as a sound proposition of law that a high court, in exercise of its inherent power, may grant exemption from surrendering in a particular case despite concurrent findings of conviction oblivious of the duty of giving effect to orders passed under the Code and/or to prevent abuse of the process of a court.

16. Having regard to our disagreement with the view expressed in Vivek

Rai (supra), which is a decision of a coordinate Bench,reference to a larger Bench is desirable. However, notwithstanding the same and notwithstanding the finding on maintainability returned by the High Court, we have looked into the merits of the petitioner's claim; and, having regard to the order we propose to pass, we do not consider it necessary to make a reference.

17. The premise/event citing which exemption from surrendering was claimed by the petitioner before the High Court is that of old-age related illness/ailments. Certificates issued by a doctor, which the petitioner relied on, are available at pages 68 and 73 of the paper book. These certificates have once again been relied on before us by learned counsel for the petitioner to persuade us hold that the High Court was in error in not granting relief, as claimed.

18. We have read the certificates. It is abundantly clear from its contents that the same have been procured by the petitioner for the purpose of seeking exemption. If indeed the petitioner is suffering from hepatitis, as claimed, laboratory test reports ought to have been placed on record for our consideration. In the absence thereof, we are not impressed that there exists exceptional reason for granting the prayer of the petitioner.

19. The special leave petition is dismissed. Connected application, if any, stands disposed of."

9. The revisionist has been convicted by the Magistrate Court after affording full opportunity of hearing as per procedure established by law and thereafter the revisionist preferred the criminal appeal which was dismissed, after following principle of natural justice. Hence the Trial Court as well as Criminal Appellate Court has passed judgment of conviction and sentence after following the procedure established by law.

10. In **Arvind Maneklal Bhagat vs. State of Gujarat [1986 LawSuit (Guj) 129] and in Girish Harsukhray Vasavada vs Shankarlal Govindji Joshi and another in Criminal Revision No. 1856 of 2025 decided on 13.10.2025, A.F.R.**, it has been held that so far as release on bail for filing a revision application is concerned, there is no provision anywhere in the Code which would enable a Court of Appeal or trial Court to suspend the sentence or release the accused on bail on the ground that he wants to file a revision application before the higher Court. The legislature has made specific provisions as per sub-section (3) of Section 389 of Cr.P.C., to release the accused on bail when intends to prefer an appeal and as such there is no provision at all anywhere in the Code empowering the Court to release the accused on bail or suspend the sentence in case, he intends to file revision

application the Court convicting the accused.

11. Thus, in view of the aforesaid, it can be sum up that the legislature did not intend to confer any such power in such circumstances to the appellate Court to stay and / or suspend and to keep the order in abeyance or to extend the time to surrender to the accused so as to enable the accused to file revision application.

12. The appellate Court became functus officio and seized with any power to exercise post disposal of the appeal. **In Arvind Maneklal Bhagat (Supra)** held that *"[4] I may mention here that I have found in some other cases also that the Judges of the Court of Session have given directions similar to the one given by the learned Addl. Session Judge in the present case. Such directions cannot be given by the Court of Session while dismissing the appeal. The Court of Sessions cannot give any such time for surrendering. The moment the Sessions Court dismisses the appeal, it follows that the accused whose appeal has been dismissed has to surrender to serve out the sentence imposed upon him. It is only the High Court which can pass appropriate orders in this regard."*

13. It is held in **Girish Harsukhray Vasavada (Supra)**, that the appellate court cannot extend the time to surrender or grant time to file the revision after pronouncement of sentence, after pronouncement of order of sentence in absence of legal immunity, and the only recourse available with the learned first appellate court is to forthwith relegate the case papers to the court concerned for execution of sentence of imprisonment as per the provision of Section 418 Cr.P.C., corresponding section 458 of B.N.S.S.

14. In view of all the facts, reasons and the provisions of law, this Court is of the considered view, that the present criminal revision is liable to be rejected and **rejected** accordingly.

15. It is made clear that the court of Sessions can not give any time for surrendering or any other order or interim bail. The moment the Sessions court dismisses the appeal, it follows that the accused whose appeal has been dismissed has to surrender to serve out the sentence imposed upon him. The judgment of conviction and sentence has to be enforced by the executing court as per the provisions of section 418 Cr.P.C., corresponding section 458 of B.N.S.S. The appellate court became functus officio and seized with any power to exercise post disposal of the appeal. It is only the High Court which can pass appropriate orders in this regard.

16. A copy of this order shall be sent to all the learned District and Sessions Judges to place in the monthly meeting as well as in the meetings of continuous learning programme for awareness of all the learned judicial officers of the Judgeship by e-mail.

17. The Registrar (Compliance) of this Court shall make necessary compliance.

December 11, 2025
K.K. Maurya

(Abdul Shahid,J.)

Digitally signed by :-
KAMLESH KUMAR MAURYA
High Court of Judicature at Allahabad