

**IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1068 OF 2019

SAURABH SAHARAN (DEAD)

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO. 2276 OF 2021

O R D E R

1. These two appeals arise from a common order dated 11.12.2018 of the Armed Forces Tribunal, (hereinafter referred to as "AFT") Principal Bench, New Delhi in O.A. No. 80 of 2013.
2. The appellant (Major Saurabh Saharan), who is now represented by his legal heirs, was found guilty and sentenced by the General Court Martial (hereinafter referred to as "GCM") on four charges. He was cashiered from service and sentenced to undergo rigorous imprisonment for a period of three years.

3. Aggrieved therewith, he filed Original Application (for short O.A.) before AFT. Upon consideration of the evidence available on record, AFT found the appellant guilty of only Charge No.4 and for rest of the charges, he was held not guilty. Charge No.4 was framed in following terms:

Fourth Charge Army Act Section 63	AN ACT PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE in that he, at Jaipur, between 31 December 2008 and 13 March 2009, which came to the knowledge of the authority competent to initiate action on 30 May 2009, improperly contacted Ms. Chapman Nancey F, a citizen of United States of America, contrary to the instructions contained in "instructions on Contact with Foreign Nationals, 1987".
---	--

4. The said charge was found proved based on the statement of PW-5 (Nancey Chapman) corroborated by other evidence.
5. Based on its conclusion(s)/ finding(s), AFT altered the punishment to one of dismissal from service.
6. Aggrieved therewith, both Union of India and Major Saurabh Saharan have filed appeal(s)

before this Court.

7. The appeal preferred by Union of India stood abated on death of Major Saurabh (i.e., respondent in Union's appeal), whereas the appeal preferred by Major Saurabh is being pursued by his legal representatives.
8. We have heard Mr. Sudhanshu S. Pandey, learned counsel appearing for the appellant and Mr. Vikramjit Banerjee, learned Additional Solicitor General appearing for the respondents.
9. Learned counsel for the appellant has argued that the mandatory procedure, as envisaged under Rule 22 of the Army Rules, 1954, was not followed and, therefore, GCM stood vitiated. He also argued that GCM was barred by limitation, prescribed in Section 122 of the Army Act, 1950. Additionally, it was argued, the evidence relied upon to uphold charge No.4 was unreliable as there were material contradictions in the statement of PW-5 and, therefore, the appellant was entitled to the benefit of doubt.
10. *Per contra*, learned Additional Solicitor General, on behalf of Union of India, submitted

that insofar as non-compliance of the provisions of Rule 22 of the Army Rules, 1954 is concerned, no such plea was raised before AFT and since consideration of such plea would depend upon foundational facts, the same cannot be allowed to be raised, for the first time, before this Court.

11. As regards limitation, it has been submitted that limitation would run from the date the offence or the misconduct comes to the notice of the competent authority. It is submitted that AFT has dealt with the plea of limitation in detail and has observed that GCM commenced within three years from the date the misconduct was brought to the notice of the competent authority. Accordingly, there is no merit in the submission that GCM proceedings were beyond the period of limitation.

12. As regards the evidence being not reliable, Mr. Banerjee submitted that the evidence on record has proved that the appellant violated the code of conduct by being in close contact with a foreign national. Evidence is also there on

record to demonstrate that there was some kind of relationship between the complainant (PW-5) and the appellant.

13. Besides, a witness (PW-15) has proved that the appellant along with the complainant visited a showroom for purchase of certain goods. Further, there is evidence that an air travel ticket for the appellant was purchased by the complainant. All these evidences amongst other established that the appellant was in a close relationship with the complainant which being without permission violated the code of conduct for a commissioned officer.

14. We have accorded due consideration to the rival submissions and have perused materials available on record.

15. We find that the evidence brought on record sufficiently established Charge No.4, of which the appellant has been found guilty by AFT.

16. As regards GCM proceedings being barred by limitation, finding has been returned by AFT that GCM proceedings had commenced within three years from the date on which the facts came to

the notice of the competent authority. We do not find any error in the said finding.

17. Insofar as the reliability of the evidence is concerned, we find that though there may be minor contradictions in the testimonies of the witnesses, the evidence sufficiently establishes Charge No.4. Nothing much could be elicited in the cross-examination to discard the testimony of the witnesses in that regard.

18. We, therefore, find no merit in the appeal of Major Saurabh. The appeal is, accordingly, dismissed. So far as Union's appeal is concerned the same stands abated.

19. However, it is made clear that if the deceased appellant was entitled to terminal/ retiral benefits consequent to the conversion of his punishment to one of dismissal by the order of AFT, the respondent(s) shall consider his entitlement, if any, and if he is entitled and any amount is found payable to his legal representatives, the same shall be paid to them in accordance with law.

20. Pending application(s), if any, shall also stand disposed of.

.....J
(MANOJ MISRA)

.....J
(MANMOHAN)

New Delhi
February 26, 2026

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 1068/2019

SAURABH SAHARAN (DEAD)

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 25596/2025 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 95995/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

C.A. No. 2276/2021 (XVII)

(IA No. 126379/2020 - EX-PARTE STAY)

Date : 26-02-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA

HON'BLE MR. JUSTICE MANMOHAN

For Appellant(s) : Mr. Arvind Kumar Sharma, AOR

Mr. Sudhanshu S Pandey, Adv.
Mr. Abhishek Ritabh Shukla, AOR
Mr. Naman Jain, Adv.
Mr. Roshan Kumar, Adv.

For Respondent(s) :

Mr. Sudhanshu' S Pandey, Adv.
Mr. Abhishek Ritabh Shukla, AOR
Mr. Naman Jain, Adv.
Mr. Roshan Kumar, Adv.

Mr. Vikramjit Banarjee, A.S.G.
Mr. Nachiketa Joshi, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mr. Rajeev Ranjan, Adv.
Mr. Udai Khanna, Adv.
Mr. Udit Dedhiya, Adv.
Mr. Kartik dey, Adv.
Mr. Sahil Bhalotia, Adv.
Ms. Akansha, Adv.
Mr. Prashant Rawat, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Crl. A. No(s). 1068/2019

1. The appeal is dismissed in terms of the signed order.
2. Pending application(s), if any, shall also stand disposed of.

C.A. No. 2276/2021

1. The appeal stands abated in terms of the signed order.
2. Pending application(s), if any, shall also stand disposed of.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(PRAVEEN KUMAR)
BRANCH OFFICER

[Signed order is placed on the file]