

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).1320 of 2004

(From the judgement and order dated 23/04/2003 in MCRLC No.522/2003
of The HIGH COURT OF M.P AT INDORE)

UNION OF INDIA

Petitioner(s)

VERSUS

BHERULAL & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP, exemption from filing O.T.,
issue of bailable warrant of arrest and office report)

Date: 07/03/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s)

Ms. Binu Tamta,Adv.

Ms. Sushma Suri,Adv.

For Respondent(s)

Ms. Hema Sahu,Adv.

Mr. C.L. Sahu,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties.

Exemption allowed.

Delay condoned.

Leave granted.

The criminal appeal is disposed of.

[T.I. Rajput]

[V.P. Tyagi]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.386 OF 2005

(Arising out of S.L.P. (Cr1.) No.1320 of 2004)

Union of India

...Appellant(s)

Versus

Bherulal & Ors.

...Respondent(s)

O R D E R

Delay condoned.

Leave granted.

Five accused were put to trial for offence under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985, and, by judgement and order dated 3rd August, 2002, all the five accused were acquitted. The order of acquittal was challenged by the appellant by an application before the High Court seeking leave to appeal against the judgement and order of the learned Special Judge. The said application, being M.C.C. No.522 of 2003, has been decided by the High Court by the impugned order whereby leave was granted against the acquittal of accused Ramesh And Udaylal and the appeals against their acquittal were admitted whereas the application seeking leave to appeal against the present respondent was dismissed.

Having heard the learned counsel for the parties, without expressing any opinion on the merits of the case at this stage as it may prejudice the case of either of the

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parties, we are of the view that leave ought to have been granted against the present respondents as well. In this view, the impugned order, to the extent it declines leave as regards the respondents herein, is set aside. The appellant is granted leave to file appeal against the order of acquittal of these respondents as well. The appeal against them shall also stand admitted and it would be heard along with the appeals filed

against the acquittal of Ramesh and Udaylal. The order that bailable warrants o
f

arrest be issued against Ramesh and Udaylal would be applicable against
the

respondents herein also and they would execute the necessary bail bonds before the

Chief Judicial Magistrate, Neemuch.

The criminal appeal is, accordingly, disposed of.

.....J.

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[Y.K. SABHARWAL]

.....J.

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[P.P. NAOLEKAR]

New Delhi,

March 07, 2005.