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SLP(Crl.)No. 295 OF 2000

ITEM No.201

Court No. 7

SECTION II
A/N MATTER

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. 295/2000

(From the judgement and order dated 27/10/1999 in CRLR 1839/99
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

NAWAL KISHORE

Petitioner (s)

VERSUS

BHAGWAN SAHAI AND ANR.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for stay and directions)
(For Final Disposal)

Date : 02/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr. Pramod Swarup, Adv.
Mr. Vikrant Yadav, Adv.
Mr. Praveen Swarup, Adv.

For Respondent (s) Mr. C.D. Singh, Adv.
State UP

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

.....L.....I.....J
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Leave granted.
The appeal is allowed in terms of the signed order.

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Charanjit [Om Prakash]
Court Master

[Signed order is placed on the file]

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2001@@
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(arising out of SLP(Crl.) 295/2000)

Nawal Kishore .. Appellant

Vs.

Bhagwan Sahai And Anr. .. Respondents

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Leave granted.

An order was made by the Sub-Divisional Magistrate on certain proceedings initiated under Section 145 of the code of Criminal Procedure. It is noticed that a suit had been filed by the first respondent against the father of the appellant Ganga Saha and Others and that suit had been dismissed. The appeal also stood dismissed thereafter on 20.2.1997. Thereafter proceedings under Section 145 stood initiated on certain complaints made in the Police Station. Though certain orders had been made at one stage subsequently by an order made on 10.9.1999, the Sub-Divisional Magistrate was of the view that considering certain facts such as the property had been seized as early as 1980 and there has been a lapse of 19 years by the time the learned Magistrate had passed the order, therefore he was inclined to hold that there was no possibility of breach of peace in the matter.

Against this order a revision petition was filed before the High Court. The High Court was of the view that the learned Magistrate ought not to have released the property

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in favour of the appellant but did not say anything on the conclusion reached by the Magistrate that when the property had been seized 19 years before the order was made and there was no likelihood of breach of peace and the proceedings initiated earlier in the writ petition before the High Court had no relevance to the matter because the writ application had been dismissed by the High Court. In the circumstances we find, the High Court ought not to have interfered with the order made by the learned Magistrate. The order made by the High court is therefore set aside and order made by the learned Magistrate shall stand restored. The appeal is allowed accordingly.

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[S. RAJENDRA BABU]@@
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[K.G. BALAKRISHNAN]@@
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New Delhi,@@
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March 2, 2001 @@
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