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SLP(Crl.)No. 1307 OF 2001

ITEM No.42

Court No. 9

SECTION II

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. 1307/2001

(From the judgement and order dated 16/06/2000 and 22.1.2001  
in Crl.Misc.W.P.No.3333/2000 of The HIGH COURT OF JUDICATURE  
AT ALLAHABAD)

STATE OF U.P.

Petitioner (s)

VERSUS

MOHD. SHAMI

Respondent (s)

( With Appln(s). for stay )

Date : 09/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s)

Mr.Jaspal Singh,Sr.Adv.,  
Mr. A.S. Pundir,Adv.

For Respondent (s)

Mr.Shambhu Nath ,Adv.,  
Ms. Sandhya Goswami,Adv.

UPON hearing counsel the Court made the following

O R D E R

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Leave granted.

Heard the learned counsel for the parties.

The appeal is allowed, impugned order is set aside.  
The matter is remitted back to the High Court with a  
direction to decide the matter afresh on merits after taking  
into consideration the contentions raised by the State of  
U.P. including the contention that in view of the  
alternative remedy available to the petitioner under  
Section 15 of the U.P. Gangster and Anti-Social Activities  
(Prevention) Act, 1986 the High Court ought not to have  
entertained the writ petition.

The appeal stands disposed of accordingly.

(Vijay Kumar Sharma)  
Court Master

(K.K. Chadha)  
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRL. APPELLATE JURISDICTION

CRL. APPEAL NO. 679 OF 2001@@  
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(Arising out of SLP (Crl.) No.1307/2001)

STATE OF U.P.

Appellant(s)

Versus

MOHD. SHAMI

Respondent(s)

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....J.....  
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Leave granted.

Heard the learned counsel for the parties.

In our view, prima facie the impugned order cannot be sustained. Therefore, the learned counsel appearing on behalf of the respondent rightly submits that the matter may be remitted back to the High Court for deciding it afresh in accordance with law. Submission accepted. The appeal is allowed, impugned order is set aside and the High Court is directed to decide the matter afresh on merits after taking into consideration the contentions raised by the State of U.P. including the contention that in view of the alternative remedy open to the petitioner under section 15 of the U.P. Gangster and Anti-Social Activities (Prevention ) Act 1986 High Court ought not to have entertained the writ petition. The appeal stands disposed of accordingly.

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.....J.  
( M.B. Shah)

.....J.  
( S.N. Variava)

New Delhi,  
July 09, 2001