

SLP(Crl.)No. 1232 OF 2000

ITEM No.201

Court No. 3

SECTION IIA
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Crl.) No. 1232/2000

(From the judgement and order dated 05/08/1999 in CRLRA 18/98
of The HIGH COURT OF BOMBAY)

GULAB MURALIDHAR DABHOLE & ORS.

Petitioner (s)

VERSUS

GORAKH NIMBA SHIRSAT & ORS.

Respondent (s)

(With Appln(s). for c/delay in filing SLP & stay)
(For Final Disposal)

Date : 01/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) M/s.K.G.Bhagat,Vineet Bhagat
Mr. Debasis Misra,Adv.

For Respondent (s) Mr. R.B. Masodkar,Adv.&
Mr. S.S.Shinde,Adv. for
Mr. S.V. Deshpande,Adv.

RR-1&2. Mr. Ajit Kumar Pande,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

Heard the learned counsel for both sides for ten
minutes.

Delay condoned.
Leave granted.
The appeal is allowed.

.SP1

(Y.P.Dhamija) (Janki Bhatia)@@
AA
Court Master Court Master@@
AAAA

Signed order is placed on the file.

.PA
.PL58

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.176/2002@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(arising out of SLP(CRL) No.1232/2000)

G.M.Dabhole & Ors. ...Appellants

Vs.

G.N.Shirsat & Ors. ...Respondents

O R D E R@@
EEEEEEEEEE

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Delay condoned.
Leave granted.

The short question that arises for consideration in this appeal is whether, the High Court was justified in exercising revisinal jurisdiction at the behest of some of the injured persons and in interfering with the order of acquittal passed by the learned Sessions Judge and directing reconsideration of the matter on the existing evidence on record. It appears that the learned Sessions Judge appreciated the entire evidence and came to the conclusion after scrutiny of the evidence that the witnesses are not reliable. Accordingly this Court came to hold that the prosecution has failed to establish the charges levelled against the accused persons. The present respondents approached the High Court invoking its revisional jurisdiction. The parametres for exercising power by the High Court in revision at the behest of the informant or any other private person has been fairly well settled by the several decisions of this Court. The jurisdiction of the High Court to interfere with an order of acquittal at the instance of a

- 2 -

private party in revision could be exercised only in exceptional cases when there is glaring defect in procedure or a manifest error on a point of law resulting in flagrant miscarriage of justice. High Court would not be entitled to re-appreciate the evidence and form its own conclusion and direct either retrial or remit the matter for reconsideration of the evidence as an appellate court would do in exercise of appellate power. In this view of the matter, on going through the impugned judgment of the High Court, we have no manner of doubt that the High Court exceeded its jurisdiction of revision. Accordingly the same cannot be sustained. The impugned order of the High Court is accordingly set aside and the order of learned Sessions Judge is affirmed

The appeal is allowed.

.SP1
.....J.
(G.B. PATTANAIAK)

New Delhi,
February 1, 2002
.....J.
(S.N. PHUKAN)