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SLP(Crl.)No. 2845 OF 2004
ITEM No.12

Court No. 5

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. 2845/2004

(From the judgement and order dated 22/08/2003 in CRLA 708/1999
of The HIGH COURT OF M.P AT JABALPUR)

STATE OF M.P.

Petitioner (s)

VERSUS

PAPPU @ RAJENDRA
(With Appln(s). for exemption from filing O.T.)
(With Office Report)

Respondent (s)

Date : 22/11/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. N.M.Ghatate, Sr.Adv.
Ms. Kamakshi S. Mehlwal,Adv.
Ms. Vasudha Sharma, Adv.
Mr. Shekhar Kumar, Adv.

For sole RespondentMr. B.S.Jain, Adv.
Dr. (Mrs.) Vipin Gupta, Adv.

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

Leave granted.

Heard parties.

The Appeal is disposed of in terms of the signed order.

The Respondent to be taken into custody forthwith.
Compliance report to be submitted to this Court within two weeks from today.

Anita

(Jasbir Singh)
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1332 OF 2004
(Arising out of S.L.P.(Criminal) No.2845 of 2004)

STATE OF M.P.

Appellant (s)

Versus

PAPPU @ RAJENDRA

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Respondent (s)

O R D E R

Leave granted.

Heard parties.

Both the trial Court as well as the High Court, in the impugned Judgment, have convicted the Respondent for an offence punishable under Section 376 (2)(f) of the Indian Penal Code. In spite of such conviction, the High Court surprisingly chooses to reduce the sentence to that already undergone. Under the Indian Penal Code a sentence less than 10 years cannot be imposed for such a conviction. It has been noticed that in spite of the law being so clear, this particular Judge chooses to pass this sort of unsustainable orders in matters after matters. In the past this Court has already pointed out that this cannot be done. This Judge still continues to pass such orders. The punishment awarded being unsustainable, we set aside that portion of the impugned Order where punishment is reduced to the sentence already undergone and the fine is increased. We restore the sentence awarded by the trial Court.

The Respondent to be taken into custody forthwith.

The Appeal stands disposed of accordingly.

Compliance report to be submitted to this Court within two weeks from today.

.....J.

(S.N. Variava)

.....J.

(H.K. Sema)

New Delhi,

November 22, 2004.