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SLP(Crl.)No. 1678 OF 2001

ITEM No.208

Court No.11

SECTION IIA
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. 1678/2001

(From the judgement and order dated 18/12/2000 in CRLA 407/89
of The HIGH COURT OF PATNA)

UPENDRA MAHTO

Petitioner (s)

VERSUS

STATE OF BIHAR

Respondent (s)

(With Appln(s). for bail)
(For Final Disposal)
(With Office Report)

Date : 17/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mrs. Anjana Prakash,adv.
Mr. Arup Banerjee,adv.
Mr. Deba Prasad Mukherjee,Adv.

For Respondent (s) Mr. B.B. Singh,Adv.

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

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.SP2

Leave granted.
The Appeal is allowed.

.SP1

(Suman Wadhwa)
Court Master

(R.K.Kumar)
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. 865 OF 2001
(Arising out of S.L.P. (Crl.) No.1678/2001)

Upendra Mahto

& Appellant

Vs.

State of Bihar

& Respondent

O R D E R

Leave granted.

The sole contention raised by learned counsel for the appellant is that the appeal has been disposed of by the High Court without affording reasonable opportunity of hearing to the appellant. The learned counsel submitted that the senior advocate who was appearing for the appellant in the High Court had expired and the name of the other advocate who was appearing with him was not shown properly in the cause list. For that reason no counsel could be present when the appeal was taken up by the Court. This position is borne out from the judgment itself. Mr.Saket Singh, learned counsel appearing for the respondent also does not dispute the factual position noted above. In the circumstances of the case, we are of the view that ends of justice will be served if the matter is remitted to the High Court for fresh disposal after giving opportunity of hearing to the parties.

Accordingly, the appeal is allowed. The judgment under challenge is set aside. The case is remitted to the High Court for disposal afresh in accordance with law after giving opportunity of hearing to the parties.

It is stated by the learned counsel for the appellant that the appellant was on bail during pendency of the appeal before the High Court. But he is not able to point out any material in support of the said statement. It will be open to the appellant to file appropriate application for bail before the High Court and if such petition is filed the same will be disposed of in accordance with law.

& & & & & & ..J.
(D.P. Mohapatra)

& & & & & & ..J.
(Shivraj V.Patil)

New Delhi
August 17, 2001

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