

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(s).1963/2006

(From the judgement and order dated 14/09/2005 in GA No. 5548/2002 of The  
HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P.

Petitioner(s)

VERSUS

BHAGWAT SINGH & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 25/08/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. Ashok K. Srivastava, Adv.

Mr. Javed Mahmud Rao, Adv.

Mr. D.A. Rao, Adv.

For Respondent(s)

Mr. S.N. Pandey, Adv.

Mr. Kumar Shaswat, Adv.

Mr Pavan Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The impugned order of the High Court is set aside and the matter is remitted back to the High Court to grant leave to appeal and decide the appeal on merit after hearing the parties.

Appeal is allowed in terms of the signed order.

( RAVI P. VERMA ) ( ANAND  
SINGH )  
Court Master Cour  
t Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 883 OF 2006

[Arising out of SLP(Cr1) No.1963/2006]

STATE OF U.P. APPEL  
PLAINT(S)

Versus

BHAGWAT SINGH & ORS. RESPO  
PLAINT(S)

O R D E R

Leave granted.

Against the order of acquittal, State of U.P. filed an appeal before the

High Court. The High Court declined to grant leave to appeal without discussing the evidence on record. There are three eye witnesses. The trial Court disbelieved the statement of eye witnesses account solely on the ground that the witnesses are real brothers to each other and belong to the same family. As such they are interested witnesses. This finding recorded by the trial Court, in our view, deserve further consideration. Keeping this view in mind, the High Court should have granted leave to appeal and examine the case on merit.

In the view that we have taken, the impugned order of the High Court is set aside and the matter is remitted back to the High Court to grant leave to appeal and decide the appeal on merit after hearing the parties.

Appeal is allowed in the above terms.

.....J.  
( H.K. SEMA )

New Delhi; .....J.  
August 25, 2006. ( P.K. BALASUBRAMANYAN )