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R.P(Crl.)No. 758 OF 2001
ITEM NO. 301

COURT NO.11

SECTION II
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

Review Petition(Crl.) No. 758/2001 in Crl.A.No. 537/1992

BHIMAPPA DUNDAPPA KATTI

Petitioner (s)

VERSUS

STATE OF KARNATAKA

Respondent (s)

(With Appln(s). for c/delay in filing review petition and office
Report)

Date : 07/12/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Rajesh Mahale, Adv.
Mr. R.C. Kohli, Adv.

For Respondent (s) Mr. M. Veerappa, Adv.

UPON hearing counsel the Court made the following
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The review petition is disposed of in terms of the
signed order.

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Sarita (Radha Rani Bhatia)@@
AA
Court Master@@
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

REVIEW PETITION (CRL.) NO. 758 OF 2001@@
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IN

CRIMINAL APPEAL NO. 537 OF 1992@@
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BHIMAPPA DUNDAPPA KATTI

...APPELLANT

VERSUS

STATE OF KARNATAKA

...RESPONDENT

O R D E R@@
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By a common Order dated February 14, 2001, Criminal Appeal No.537/1992 and Criminal Appeal No.18/1993 were disposed of. There were nine accused persons, tried and acquitted by the Sessions Court for charges under several sections of Indian Penal Code. The State of Karnataka preferred an appeal, putting in issue the acquittal of the nine accused persons, which was allowed and all the nine accused persons were convicted for offences under Sections 147, 148 and 326 read with Section 149 of the Indian Penal Code and sentenced to different terms of imprisonment, made to run concurrently, the maximum being four years rigorous imprisonment under Section 326 read with Section 149 I.P.C.

Feeling aggrieved by the conviction so recorded and the sentences passed by the High Court, the accused persons preferred appeals before this Court. Criminal Appeal ..2/-

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No.537/1992 was preferred by eight accused persons while Criminal Appeal No.18/1993 was preferred by one accused. In Criminal Appeal No.537/1992, in the Memo of Appeal names of seven appellants appear on the first page and the name of the eighth - Bhimappa Dundappa Katti appears on the next page. It appears that probably, for this reason, while disposing of the appeal this Court formed an impression that Criminal Appeal No.537/1992 was preferred by seven accused persons and therefore, the name of the 8th appellant (who was accused No.9 in the trial court) was inadvertently left out from being mentioned in the order dated February 14, 2001. The mistake came to light when the accused Bhimappa Dundappa Katti approached the trial Court for depositing the amount of fine, consistently with the Order of this Court dated February 14, 2001. He has, therefore, filed this petition under Article 137 of the Constitution of India seeking review of the Order passed in Criminal Appeal No.537/1992 pointing out the inadvertent error and submitting that a similar relief, as was allowed to the other accused-appellants, may be allowed to him.

The factual position is not disputed by the learned counsel for the State. We find that this Court by order under review had, while maintaining the conviction as ..3/-

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recorded by the High Court, allowed relief in the matter of sentence by allowing the accused-appellants to be set at liberty, reducing the sentence of imprisonment to the period already undergone but enhancing the sentence of fine. Appellants Nos. 1 to 7 were sentenced to a fine of Rs.15,000/- (Rupees fifteen thousand) each, keeping in view the fact that they had remained in custody for about 13 and a half month till the trial was over. The appellant in Criminal Appeal No.18/1993 had remained on bail throughout the trial. He was sentenced to pay a fine of Rs.25,000/-. The accused No.9, the petitioner before us, had undergone a period of detention of ten months during the trial. Subsequent to conviction by High Court, all the accused persons remained in jail till they were allowed bail by this Court. Keeping in view these facts, it is directed that Bhimappa Dundappa Katti, the petitioner, who was appellant No.8 in Criminal Appeal No.537/1992 (and accused No.9 before the trial court) shall pay a fine of Rs.20,000/- (Rupees twenty thousand). He shall undergo rigorous imprisonment for a period of 15 months in case he fails to deposit the amount of fine in the trial court within a period of eight weeks from today. The above

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direction shall be deemed to be a part of Order dated February 14, 2001.

In addition to making the abovesaid direction, the following errors are also directed to be corrected in the Order dated February 14, 2001 :

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1. On page 1, 8th line, the word 'eight' shall be read as 'nine'.
2. In the last line of 1st page and in the first line of page 2, the following words placed in bracket shall stand deleted : '(Accused 9 was absconding and was not tried)'.
3. In the 4th line of page 2, the word 'eight' shall be read as 'nine'.

With these directions the review petition stands disposed of.

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.....J.
(R.C. LAHOTI)

.....J.
(SHIVARAJ V. PATIL)

New Delhi,
December 7, 2001.

.....J.
(BRIJESH KUMAR)