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SLP(Crl.)No. 2255 OF 2001
ITEM No.36

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. 2255/2001

(From the judgement and order dated 16/05/2001 in WP 774/01
of The HIGH COURT OF M.P AT GWALIOR)

ARVIND VERMA

Petitioner (s)

VERSUS

DIRECTOR GENERAL OF POLICE & ORS.

Respondent (s)

(With Appln(s). for interim directions and office report)

WITH
W.P(Crl.)No.113/2001

Date : 19/11/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Randhir Singh Jain,Adv.
Mr. Durgainder Singh,Adv.
Ms. Savita Singh,Adv.

For Respondent (s) Mr. Ramesh Singh,Adv.
Mr. B.S. Banthia,Adv.

UPON hearing counsel the Court made the following
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S.L.P.(Crl.) No.2255/2001@@
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Leave granted.

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

Writ Petition (Crl.) No.113/2001@@
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The writ petition is dismissed as withdrawn in terms
of the signed order.

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(Neena Verma)
Court Master

(Radha Rani Bhatia)
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.1177 OF 2001@@
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(@ Special Leave Petition (Crl.) No.2255/2001)

Arvind Verma Appellant

Versus

Director General of Police & Ors. Respondents

WITH
Writ Petition (Crl.) No.113 of 2001

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S.L.P.(Crl.) No.2255 of 2001@@
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Leave granted.

A Writ Petition filed by the petitioner and seeking a writ in the nature of Habeas Corpus was dismissed in default of appearance of the petitioner. Thereafter, a fresh writ petition was filed. The High Court dismissed the second petition forming an opinion that it was based on the same cause of action as was pleaded in the earlier petition and, therefore, the second petition was not maintainable. In our opinion, the view taken by the High Court is too technical. Firstly, the petitioner was seeking a writ in the nature of Habeas Corpus. Secondly, a comparative reading of the contents of the first and the second writ ...2/-

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petition show that certain fresh events are pleaded in the second petition and, therefore, the cause of action could not have been said to be the same as was pleaded in the earlier writ petition. In any case, there was no adjudication on merits in the earlier writ petition when it was dismissed in default of appearance. In the peculiar facts and circumstances of the case, we think that in the interest of justice, the subsequent petition filed by the petitioner should have been heard and decided on merits.

The impugned order is, therefore, set aside. The writ petition filed by the petitioner before the High Court shall stand restored for hearing on merits. All the pleas raised or to be raised by the respondents, including those questioning the maintainability of the writ petition, shall also be heard and decided by the High Court.

We make it clear that we are simply restoring the writ petition before the High Court for hearing and the order of this Court shall not be construed as an expression on the merits of any of the pleas raised by either of the parties before the High Court.

The appeal is disposed of accordingly.

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Writ Petition (Crl.) No.113 of 2001@@
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In view of the order passed by us today in SLP
(Crl.) No.2255 of 2001, the learned counsel for the
petitioner seeks to withdraw this petition under Article 32
of the Constitution, which is dismissed as withdrawn and
without any adjudication on merits.

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

New Delhi,
November 19, 2001.

.....J.
(BRIJESH KUMAR)