

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).4014/2012

(From the judgement and order dated 28/06/2011 in CRLR No.201/2011, of The HIGH COURT OF ORISSA AT CUTTACK)

JOGENDRA NATH GHARAI Petitioner(s)

VERSUS

STATE OF ORISSA & ANR Respondent(s)

(With office report)

Date: 31/01/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. P.K.Mohapatra, Adv.
Mr. Kedar Nath Tripathy, Adv.

For Respondent(s) Ms. Shalini Chandra ,Adv
Ms. Swati Chandra, Adv.
Mr.SUDhanshu Saran, Adv.

Mr. Balaji Srinivasan ,Adv

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

Leave granted.
The appeal is allowed in terms of the signed order.

| (Shashi Sareen) | | (Veena Khera) | |
| Court Master | | Court Master | |

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CIVIL APPEAL No. 297 OF 2014
(Arising out of SLP(Crl.) No. 4014 of 2012)

| JOGENDRA NATH GHARAI | ... | Appellant(s) |

| Versus |

| STATE OF ORISSA AND ANR. | ... | Respondent(s) |

O R D E R

The High Court has dismissed Criminal Revision No. 201 of 2011 filed by the appellant herein on the solitary ground that no leave has been obtained for filing such a revision petition.

When the matter initially came up before us on 07.05.2012, we were of the opinion that the High Court was in error in holding that a revision petition against an order of acquittal can be filed only with prior leave of the High Court. We had accordingly issued notice to the respondent to show cause why the matter may not be remitted back to the High Court for hearing on merits. In response to the notice the State of Orissa has entered appearance through Ms. Shalini Chandra. The acquitted accused arrayed as Respondent No. 2 has however remained absent despite service. Learned counsel appearing for the State of Orissa submits that the High Court was indeed in error in holding that a revision without leave could not be filed against an

order of acquittal. She submits that Acquittal Appeal No. CRLLP No. 42 of 2012 challenging the acquittal of respondent No. 2 has been filed by the State and is pending before the High Court.

In the circumstances, therefore, we see no reason why the matter cannot be remitted back to the High Court to be heard along with the acquittal appeal pending before it.

We accordingly allow this appeal, set aside the order passed by the High Court and remit the matter back to the High Court with a request to hear the revision petition filed by the appellant along with the acquittal appeal filed by the State of Orissa.

.....J.
(T.S.THAKUR)

.....J.
(C.NAGAPPAN)

New Delhi,
January 31, 2014.