

ITEM NO.2

Court No.12

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).3429/2011

(From the judgement and order dated 25/02/2011 in CRLA No.93/2004,
dated 07/04/2011 in CRLA No.93/2004, dated 08/04/2011 in CRLA
No.93/2004, of The HIGH COURT OF H.P AT SHIMLA)

S.K.GUPTA

Petitioner(s)

VERSUS

STATE OF H.P.

Respondent(s)

(With appln(s) for bail and office report)

WITH SLP(Crl) NO. 6895-6896 of 2011

(With appln. for bail and suspension of sentence and office report)

Date: 29/02/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s)

Mr. J.S.Attri, Sr. Adv.
Mr. Nitin Kumar Srivastava, Adv.
Mr. Rameshwar Prasad Goyal, Adv.
Ms. Priyanka Bharihoke, Adv.
Mr. Shourie Anand Singh, Adv.

Mr. S.K.Mittal, Adv.
Mr. Rajesh Srivastava, Adv.
Mr. Sudhir Malhotra, Adv.
Mr. Raghvendra Pratap, Adv.
Ms. Surerssh Kumari, Adv.

For Respondent(s)

Mr. Aditya Singh, Adv.
Ms. Upasana Nath, Adv.
Mr. Shree Pal Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeals are partly allowed and disposed of in
terms of the signed order.

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(Shashi Sareen)
Court Master

(Veena Khera)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 481 OF 2012
(Arising out of SLP(Crl.) No. 3429 of 2011)

S.K. GUPTA

...

APPELLANT(s)

Versus

STATE OF HIMACHAL PRADESH

...

RESPONDENT(s)

WITH

CRIMINAL APPEAL NO. 482-483 OF 2012
(Arising out of SLP(Crl.) No. 6895-96 of 2011)

BUDH RAM

...

APPELLANT(s)

Versus

STATE OF HIMACHAL PRADESH & ANR.

...

RESPONDENT(s)

O R D E R

Leave granted.

These two appeals arise out of a common order passed by the High Court of Himachal Pradesh whereby Criminal Appeal No. 93 of 2004 filed by the State of Himachal Pradesh against the appellants (respondents before the High Court) challenging their acquittal by the learned Special Judge for

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offences punishable under Sections 120B, 409, 420 and 477-A of the Indian Penal Code and under Section 13(2) of the Prevention of Corruption Act, 1988 has been allowed. The High Court has by the said judgment and order convicted appellant- S.K.Gupta for offences punishable under Sections 120B, 409, 477, 420 of the Indian Penal Code and Section 13(2) of the Prevention of Corruption Act, 1988.

Appellant-

Budh Ram has by the same order been convicted under Sections 120B, 420 of the Indian Penal Code. The High Court has by a separate order assailed in these appeals sentenced the appellants to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 10,000/- on each count and in default of payment of fine to undergo simple imprisonment for a further period of three months.

We have heard learned counsel for the appellants and Mr. Aditya Singh, learned counsel appearing for the State of

Himachal Pradesh at considerable length. We have also been taken through the orders passed by the trial court and that passed by the High Court convicting the appellants. We see no perversity in the view taken by the High Court nor any miscarriage of justice to warrant our interference.

Learned counsel for the appellant in Criminal Appeal No. 481 of 2012 however argued that appellant-S.K. Gupta is a senior citizen aged about 74 years with multiple medical problems. It was also argued that the incident in question had taken place as early in the year 1995 and that the appellants have undergone the trauma of a prolonged trial for several years.

That apart, the amount allegedly misappropriated short paid to the land owners have also been paid to them during the pendency of the proceedings before the courts below. In the totality of the above circumstances therefore, and in the peculiar facts of the case, we are inclined to reduce the sentence awarded to the appellants from three years to one year rigorous imprisonment with a fine of Rs. 10,000/- imposed to be paid by each one of the appellants. In default of payment of fine, the appellants shall undergo a further rigorous imprisonment of three months. The appeals are with that modification partly allowed and disposed of. Since the appellants are currently on bail, their bail bonds shall stand cancelled. They shall surrender to serve the remainder of the sentence within six weeks, failing which appropriate steps shall be taken to take them into custody.

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

.....J.
(GYAN SUDHA MISRA)

NEW DELHI
FEBRUARY 29, 2012.
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