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SLP(Crl.)No. 3234 OF 2001
ITEM No.202

Court No. 6

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. 3234/2001

(From the judgement and order dated 26/07/2001 in CRLR 262/2000
of The HIGH COURT OF JUDICATURE AT PATNA)

HARI SHANKAR SINGH & ORS.

Petitioner (s)

VERSUS

INDRADEO SINGH & ANR.

Respondent (s)

(With Appln(s). for stay and exemption from filing O.T.)
(For Final Disposal)
(With Office Report)

Date : 20/09/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. Amrendra Sharan, Sr.Adv.
Mr. Amit Kumar, Adv.
Mr. Samir Ali Khan, Adv.
Mr. Amit Anand Tiwary, Adv.
Mr. S.Chandra Shekhar, Adv.
Mr. Himanshu Shekhar, Adv.

For Respondent (s) Mr. B.S.Jain, Adv.
Mr.Ajay Veer Singh, Adv.
Mr. Goodwill Indeevar, Adv.

Mr. B.B. Singh, Adv.
Ms. Sunita R. Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J.
.SP2

Heard learned counsel for the parties for about
fifteen minutes.

Leave granted.

The appeal is allowed in terms of the signed
order.

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INDU

(Shelly Sengupta)
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. OF 2002@@
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(ARISING OUT OF SLP (CRIMINAL) NO.3234 OF 2001)

HARI SHANKAR SINGH & ORS.

APPELLANTS

VERSUS

INDRADEO SINGH & ANR.

RESPONDENTS

O R D E R@@
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.SP2

Heard learned counsel for the parties.
Leave granted.

By the impugned order, the High Court in the exercise of its revisional jurisdiction at the instance of a private prosecutor, interfered with the order of acquittal passed in a murder trial. It is well settled that while exercising revisional jurisdiction against the order of acquittal, a High Court cannot convert the finding of acquittal into that of conviction and the only order that it can pass is to remit a case for retrial or reconsideration of evidence adduced by the parties, as is found expedient, which can be done in case of procedural irregularity or non-consideration or mis-reading of material evidence or any other infirmity postulated under law. It appears from the impugned order that the High Court has remanded the matter as if remand was an empty formality. Neither any of infirmities enumerated above has been found by the High Court in the order of acquittal nor learned counsel on

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behalf of the respondents is in a position to point out the same. In view of the aforesaid discussion, we are of the view that the High Court was not justified in remitting the matter to the trial court.

Accordingly, the appeal is allowed, the impugned order of remand passed by the High Court is set aside and that of the trial court is restored.

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.....J.
(B.N. Agrawal)

.....J.
(Arijit Pasayat

New Delhi,
September 20, 2002.