

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).3204/2009

(From the judgement and order dated 28/02/2006 in CRLA No.883/2001
of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

LIYAKAT @ ANDHA KANOON Petitioner(s)

VERSUS

STATE OF UTTRAKHAND Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 10/08/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)
Ms. Naresh Bakshi,Adv.(A.C.)

For Respondent(s) Mr. A.P. Sahay, Adv.
Mr. Jatinder Kumar Bhatia,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed in terms of the signed order.

(Kusum Syal)
Sr.P.A.

(Juginder Kaur)
Court Master

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.....OF 2009
(Arising out of SLP(Crl.)No.3204 of 2009)

LIYAKAT @ ANDHA KANOON Petitioner(s)

VERSUS

STATE OF UTTRAKHAND Respondent(s)

ORDER

Leave granted.

This appeal is directed against the judgment and order passed by the Uttranchal High Court confirming the appellant's conviction under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentencing the appellant to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 1 lac, in default to undergo Rigorous Imprisonment for a further period of two years.

Learned counsel appearing on behalf of the appellant submits that the judgment was delivered at a point of time when the decision in the case of E. Michael Raj vs. Intelligence Officer Narcotics Control Bureau 2008 (5) SCC 161 had not been pronounced. The subsequent amendment of Section 20 of the Act has been reflected in the Schedule. Under the amended provisions, the appellant would have been sentenced to undergo a maximum sentence of six months, whereas the appellant has already undergone 10 years & 6 months imprisonment.

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Having regard to the above, we allow the appeal and set aside the portion of the sentence relating to default and payment of the fine and direct that the appellant be released forthwith. The appeal is allowed to the above extent.

.....J
(ALTAMAS KABIR)

.....J
(CYRIAC JOSEPH)

NEW DELHI
DATED: AUGUST 10, 2009