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SLP(Crl.)No. 594 OF 2001

ITEM No.60

Court No. 4

SECTION II  
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. 594/2001

(From the judgement and order dated 12/11/1999 in CRLA 512/83  
of The HIGH COURT OF U.P AT LUCKNOW)

STATE OF U.P.

Petitioner (s)

VERSUS

SHATRUHAN LAL

Respondent (s)

Date : 23/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK  
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. Yogeshwar Prasad, Sr. Adv.  
M/s. R.C.Verma, Vivek Vishnoi, Ms. Kiran Kapoor  
and Ms. Sageetasha, Adv.

Mr. R.B. Misra, Adv.

For Respondent (s) Dr. Sumant Bharadwaj, Adv.  
Mr. Praveen Chaturvedi, Adv.  
Ms. Mridula Ray Bharadwaj, Adv.

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

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

Leave granted.  
The appeal is allowed.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@  
AA  
COURT MASTER 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. 543/2001@@  
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(arising out of SLP(CRL) No. 594/2001)

State of U.P. ..Appellant

Vs.

Shatruhan Lal ..Respondents

O R D E R@@  
EEEEEEEEEE

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

Leave granted.

The State of Uttar Pradesh is in appeal against the judgment of a learned Single Judge of Allahabad High Court in Criminal Appeal No. 512/1983. The accused respondent stood convicted under section 161 of the IPC and section 5(2) of Prevention of Corruption Act and sentenced to imprisonment for 2 years under section 161, IPC and 2 years under section 5(2) of the Prevention of Corruption Act. In appeal, the accused not having pressed the appeal on merits, the High Court upheld the conviction of the accused, but so far as the sentence is concerned, altered the sentence to the period already undergone. It is still surprising to note that after altering the sentence, as stated above, the High Court further directs that the order of conviction will not affect the service of the appellant in the capacity as a Public Servant. We fail to understand wherefrom the High Court gets this jurisdiction to make such observation. Even on the question of sentence, we find that section

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5(2) originally did not provide for a compulsory period of sentence. But the Parliament amended the provision on the ground that experience shows that there has been a tendency amongst the Courts to deal too leniently with Public Servants convicted under the Prevention of Corruption Act. The object and reason of the amendment indicates that where imprisonment is awarded, the period is frequently too small to have adequate punitive or deterrent effect and the amounts of fine imposed are frequently grossly incommensurate with the corrupt gains, and the intended amendment was thought of as a measure which will ensure that adequate punishment is awarded in cases of proved corruption. In the teeth of the aforesaid provision without any rhyme and reason, the High Court was wholly unjustified in altering the sentence already undergone merely because the incident was of year 1977. In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court erred in law in interfering with the sentence awarded as well as in making observation that the conviction will not affect the service of the accused person in the Public Employment. We therefore set aside the impugned judgment and allow this appeal.

(G.B. PATTANAİK)

New Delhi,  
April, 23, 2001

.....J.  
(U.C. BANERJEE)