

x" I T E M NO.11
(For jt.)

COURT NO.3

SECT I O N I I

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

Appellant (s)

V E R S U S

STAT E O F U . P .

Respondent(s)

Date:16/03 / 2009 This Appeal was called on for judgment today.

For Appellant(s) Mr. Shsivpati B.Pandey,Adv.
Ms. Asha Upadhyay,Adv.
Mr. R.D.Upadhyay,Adv.

For Respondent(s)
Mr. Anil Kr. Jha,Adv.

Hon'ble Dr. Justice Arijit Pasayat
pronounced the judgment of the Bench comprising His
Lordship and Hon'ble Mr. Justice Asok Kumar
Ganguly.

Leave granted.

The impugned order is set aside and the
matter is remitted to the High Court for a fresh
consideration on merits. To avoid unnecessary delay let
the parties appear before the High Court on 24/3 / 2009
so that a date of hearing can be fixed. The Hon'ble Chief
Justice of the High Court is requested to post the matter
before an appropriate Bench.

The Appeal is allowed.

[S U M A N W A D H W A]
C O U R T M A S T E R

[I N D U S A T I J A]
C O U R T M A S T E R

Signed Reportable judgment is placed on the file.

RE P O R T A B L

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

C R I M I N A L A P P E L L A T E J U R I S D I C T I O N

C R I M I N A L A P P E A L N O . 4 7 0 O F 2 0 0 9
(Arising out of SL P (Crl.) No. 8107 of 2008)

Santosh

..Appellant

Versus

State of U.P.

..Respondent

J U D G M E N T

Dr. A R I J I T P A S A Y A T, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Allahabad High Court dismissing the Revision Petitions filed by the appellant. Two revisions petitions were filed and one of them i.e. Criminal Revision No.1622 of 1989 was by the appellant.

The matter was

taken up ex-parte and the revision petition was dismissed after referring to various aspects. An application for recall was filed which was dismissed on the ground that the order which was sought to be recalled was passed on merits and therefore cannot be recalled.

3. Though many points were urged in support of the application it is not necessary to go into those in detail. While issuing notice on 7.11.2008 it was indicated that the matter may be remitted to the High Court for fresh hearing as the revision petition was dismissed

in the absence of learned

2

counsel for the appellant. During the hearing of the application learned counsel for the appellant indicated various reasons for which there was non appearance on the day the matter was taken up. That being so, it would be appropriate to set aside the impugned order and remit the matter to the High Court for a fresh consideration on merits. To avoid unnecessary delay let the parties appear before the High Court on 24.3.2009 so that a date of hearing can be fixed. The Hon'ble Chief Justice of the High Court is requested to post the matter before an appropriate Bench.

4. The appeal is allowed.

..... J.
(Dr. AR I J I T PAS A Y A T)

.J.

.....
(ASO K KU M A R GANGUL Y)

New Delhi,
March 16, 2009