

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 470 OF 2009
(Arising out of SLP (Crl.) No. 8107 of 2008)

Santosh

..Appellant

Versus

State of U.P.

..Respondent

J U D G M E N T

Dr. ARIJIT PASAYAT, 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 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. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
March 16, 2009