

**SUPREME COURT OF INDIA**

State of U.P

Vs.

Heera Lal

CrI.A.No.154 of 2008

(Ashok Bhan and Dalveer Bhandari, JJ.)

22.01.2008

**ORDER**

Arising out of SLP(CrI.) No.98 of 2006)

1. Delay condoned.
2. Leave granted.
3. Respondent is not present in spite of service. Ordered to be proceeded ex-parte. Writ Petition No. 2049 of 2005 was filed in the High Court of Judicature at Allahabad in the month of January/February, 2005. The same was decided by the High Court on 1st March, 2005.
4. In ground 'B', appellant-State has stated that "the High Court did not allow the petitioner State to file its counter affidavit and therefore the High Court failed to take into consideration the subsequent proceedings after the order dated 7.12.2004 passed by the District Magistrate, Meerut". This fact has not been rebutted as the respondent has not put in appearance.
5. Taking the aforesaid fact to be correct, we accept this appeal; set aside the impugned order of the High Court and remit the matter to the High Court for decision afresh in accordance with law after affording an opportunity to the appellant-State to file its counter affidavit and hearing. The Appeal is allowed in the above terms.