

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 903 of 2014

1. Ghanshyam S/o Late Topram, aged about 64 years,
2. Ridhu Sahu S/o Shri Ghanshyam Sahu, aged about 46 Years,
3. Gains Lal Sahu S/o Shri Ghanshyam Sahu, aged about 37 Years,
4. Khemulal Sahu S/o Shri Ghanshyam Sahu, aged About 42 Years.

All are R/o Vill. Nagpura, Police Station Mandir Hasud, Dist. Raipur (C.G.)

---- Petitioners

Versus

1. State Of M.P. (Now State Chhattisgarh)

---- Respondent

For Petitioners – None.

For Respondent – Shri U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

20/03/2015

1. By this order the Cr.M.P. filed by the petitioners seeking modification in the judgment dated 15-09-2014 to the extent that appellant No.3 (Gains Lal) be completely exempted from paying fine amount awarded to him, as well as, the other remaining appellants are poor persons, hence, they be ordered to pay fine of Rs.2,000/- instead of Rs.10,000/- is being disposed of.
2. By filing this Cr.M.P., it is submitted on behalf of the petitioners that in the judgment passed by this Court on 15-09-2014 (Ghanshyam and three

others v. State), the Court enhanced the fine as Rs.10,000/- each. Petitioner/appellant No.3 Gaiind Lal Sahu had already served his entire jail sentence. This fact was informed during argument. The other petitioners/appellants are very poor persons they are unable to pay huge enhanced amount. As petitioner No.3 Gaiind Lal served the entire substantive jail sentence, he may be exempted from paying of fine amount completely and as the other petitioners are very poor and are unable to pay as much amount as imposed by the Court, their fine amount may be reduced from Rs.10,000/- to Rs.2,000/- by allowing the petition and modifying the order/judgment to the extent as prayed.

3. The petitioners are not represented at the time of hearing of this Cr.M.P. The petition is presently at the motion stage. Hence, the same is being decided at the stage of motion.

4. Perused the petition and the documents enclosed along with the petition and also heard learned counsel appearing for the State/respondent.

5. Learned counsel for the respondent opposed the petition and submitted that the judgment is passed by this Court and there is no scope for any modification for the fine part as this is not a clerical mistake. By appreciating the entire facts, this Court partly allowed the appeal of the petitioners. The petition may be dismissed.

6. In order to appreciate the petition and the argument of the party present i.e. learned counsel for the respondent/State, I have perused the entire petition and the impugned judgment.

7. The petitioners and the State counsel argued on Criminal Appeal No.2535/1997 finally before the Court. After final arguments, as the trial Court's judgment was assailed by all the appellants, the Court passed the judgment by which the appeal filed by the appellants/petitioners was partly allowed and the

sentence awarded by the trial Court was modified, the appellants were convicted for lesser offence and sentenced accordingly with the imprisonment and fine sentence. Fine sentence was enhanced as Rs.10,000/- for each of the petitioners/appellants.

8. The judgment was passed after hearing both of the parties on merit and after appreciating the entire facts and circumstances, this Court allowed the appeal in part. This is not a clerical error which may be modified in this Cr.M.P. Looking to the entire facts and circumstances, the petition filed is not tenable at the motion stage itself.

9. Consequently, the petition filed on behalf of the petitioners is being devoid of merit. It ought to be and is hereby dismissed.

Sd/-
(C.B.Bajpai)
JUDGE

Order Sheet

None for the petitioners.

Shri U.K.S.Chandel, Panel Lawyer for the State/respondent

None gave his representation on behalf of the petitioners when the case is taken up for hearing.

Parties present are heard in the motion stage itself.

Perused the entire record.

Judgment dictated in open Court, typed separately, signed and dated.

The Cr.M.P. filed on behalf of the petitioners is dismissed.