

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 219 of 2017

Devendra @ Devanand S/o Dilbodh Nageshiya, Aged About 30 Years
R/o Village Lakhanpur, Police Station Katghora, Civil & Revenue District
Korba, Chhattisgarh. **---- Petitioner**

Versus

State Of Chhattisgarh Through District Magistrate Korba, Station House
Officer, Police Station Katghora, District Korba, Chhattisgarh.

....Respondent

For Petitioner	:	Mr. Dharmesh Shrivastava, Advocate
For State	:	Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/02/2017

Heard on admission.

1. This petition arises out of an order dated 08.08.2016 by which, criminal appeal of the petitioner has been dismissed for want of prosecution.
2. Learned counsel for the petitioner submits that the appeal ought not to have been dismissed only on the ground of non-appearance of the counsel because it is not a case where repeated non-appearance was made. He submits that though the petitioner has justified grounds and cause shown in this petition, as the Court below could not recall the order, this petition has been filed.
3. Learned State counsel submits that the order has been passed because of non-appearance of the counsel.
4. Considering that the petitioner has been convicted for commission of

offence under Section 457 & 380 of IPC and sentenced to undergo R.I. for 6 months, against which, appeal was preferred and the orders did not show that on repeated occasions when the case was listed, appearance was not made, therefore, the order dated 08.08.2016 is set aside and the Criminal Appeal of the petitioner is restored to its original number.

5. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha