

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr. M. P. No.198 of 2017

State of M.P. (Now Chhattisgarh) through the Police Station Patna,
District Korea (M.P.) (Now Chhattisgarh)

---- Petitioner

versus

1. Mohd. Naseem, son of Mohd. Yasin, aged about 19 years, R/o Baikunthpur, District Korea (M.P.) (Now Chhattisgarh)
2. Shambhu @ Shyam Narayan, S/o Lal Dev, Chikwa, aged about 30 years, R/o Baikunthpur, P.S. Baikunthpur, District Korea (M.P.) (Now Chhattisgarh)

--- Respondents

For Petitioner/State	:	Shri Sanjeev Pandey, Government Advocate
For Respondent No.1	:	Shri Mahendra Dubey, Advocate
For Respondent No.2	:	Shri Shakti Raj Sinha, Advocate

Hon'ble Shri Justice Anil Kumar Shukla

ORDER

12.4.2017

1. The present petition has been moved by the State under Section 482 of the Code of Criminal Procedure for modification/recalling of order dated 16.12.2016 passed in Criminal Appeal No.3019 of 1998 by this Court.
2. By order dated 16.12.2016 passed in Criminal Appeal No.3019 of 1998 by this Court, the appeal was dismissed as having become infructuous on the report (PUD) dated 3.2.2003 of the Superintendent of Police, Bilaspur filed by the Learned State Counsel to the effect that accused Mohd. Naseem had been released from Central Jail, Bilaspur on remission on 26.1.2002 and accused Shambhu was released from Central Jail, Bilaspur on

25.8.2000 in compliance of releasing order dated 21.8.2000. No one had appeared on behalf of both the accused before this Court on 16.12.2016. Today, accused Shambhu is present in person with his Counsel Shri Shakti Raj Sinha, Advocate.

3. The State has now filed the instant petition for recalling the order dated 16.12.2016 on the ground that as per the report dated 18.1.2017 sent by the Jail Superintendent, Central Jail, Bilaspur accused Shambhu was released from Central Jail, Bilaspur on 25.8.2000 under order dated 21.8.2000 passed by the Additional Sessions Judge, Baikunthpur on bail, not on remission or completion of his sentence.
4. Learned Counsel appearing for accused Mohd. Naseem states that though accused Mohd. Naseem was released on remission, he wants to challenge his conviction.
5. I have heard Learned Counsel appearing for the parties and perused the material available on record.
6. Since the release of accused Shambhu was on bail, not on remission or completion of his sentence and accused Mohd. Naseem, who has been released on remission, wants to challenge his conviction and pursue his appeal on merits, the instant petition preferred by the State under Section 482 Cr.P.C. is allowed, the order dated 16.12.2016 passed in Criminal Appeal No.3019 of 1998 is recalled and the criminal appeal of accused Mohd. Naseem and Shambhu is restored to its file.

7. Let the criminal appeal be listed for hearing on merits in the month of July, 2017.
8. This order be communicated to the concerned Trial Court.

Sd/-
(Anil Kumar Shukla)
JUDGE