

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 1366 of 2019

- Manharan Singh Kanwar S/o. Rameshwar Singh Aged About 55 Years
R/o. Adarsh Vihar, P.S. Kusmunda, District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- District Magistrate, Katghora, District
Korba Chhattisgarh

---- Non-Applicant

For Applicant : Mr. Govind Ram Miri and Mr. Basant
Kaiwartya, Advocates.

For State/respondent : Mr. Arijit Tiwari, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-11-2019

Heard.

1. This petition has been brought being aggrieved by the order dated 06.09.2016 passed by the Court of Additional Sessions Judge, Katghora, District- Korba, C.G. in Criminal Appeal No.24/2009 by which the appeal of the applicant has been dismissed for non-prosecution.
2. Learned counsel for the applicant submits that the impugned order is against the provisions of law, therefore, it may be set aside.
3. Learned counsel for the State opposes the application.
4. Heard learned counsel for both the parties and perused the documents.
5. There is no provision under Cr.P.C. in which the criminal appeal can be dismissed for non-prosecution. Section 384 of Cr.P.C. although provides for summary dismissal of appeal but even in that case opportunity has to be given to the appellant party before such dismissal. Therefore, the impugned order is not sustainable, therefore, the revision petition is

allowed and the impugned order is set aside. The appeal pending before the Sessions Court is restored to its file and the applicant is directed to give his appearance on 10th December, 2019 before the Appellate Court.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika