

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Cr.M.P. No. 965 of 2021**

- Jhamendra Kumar, S/o Mahesh Kumar Mahar, presently aged 45 years, R/o Village Pendakode, Police Station Mohala, District Rajnandgaon (M.P.) (Now Chhattisgarh)

... Applicant**versus**

- State of M.P. (Now Chhattisgarh), through Police Station Mohala, District Rajnandgaon (C.G.)

... Non-applicant

For Applicant	:	Mr. Shaleen Singh Baghel, Advocate.
For Non-applicant	:	Mr. Lalit Jangde, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Hon'ble Smt. Justice Rajani Dubey****Order on Board****[26/10/2021]****Per, P. Sam Koshy, J.**

1. The present is an Application under Section 482 of the Criminal Procedure Code seeking for modification of Judgment dated 16.11.2015 passed by this Court in Criminal Appeal No.670/2000.

2. The modification sought for is to the extent of enhancement of the period prescribed in depositing the compensation amount in terms of the aforesaid Judgment, failing which the period of sentence was directed to be enhanced to an additional one year of rigorous imprisonment.

3. Vide Judgment dated 29.2.2000 passed by the Additional Sessions Judge, Rajnandgaon in Sessions Trial No.115/1999, the Applicant herein was sentenced to undergo life imprisonment for the offence punishable under Section 376(1) of the Indian Penal Code with fine of Rs.10,000/-, failing which he was required to undergo further two years of rigorous imprisonment. He was also directed to pay the Victim an amount of Rs.8,000/- as compensation under Section 357 of the Criminal Procedure Code.

4. Applicant had thereafter preferred an Appeal i.e. Criminal Appeal No.670/2000 before this Court. The Division Bench of this Court had vide its Judgment dated 16.11.2015 partly allowed the Appeal to the extent of, the sentence part of life imprisonment was reduced to seven years of rigorous imprisonment. At the same time, the compensation of Rs.8,000/- awarded under Section 357 of the Criminal Procedure Code was further enhanced to Rs.20,000/- to be paid within two months, failing which the period of sentence was directed to be enhanced to an additional one year of rigorous imprisonment.

5. Contention of learned Counsel for Applicant is that though the Judgment of this Court was passed on 16.11.2015, it could not be communicated to Applicant in time and he only came to know about it after a couple of months and immediately thereafter he surrendered on 14.3.2016 and since then he is in jail.

6. Further contention of learned Counsel for Applicant is that on account of financial stringency, the Applicant could not deposit the compensation amount within the stipulated period and thereafter since he is in custody he could not arrange the compensation amount also during the intervening period.

7. Learned Counsel for Applicant submits that now the Applicant has arranged certain amount and he seeks for modification of the Judgment dated 16.11.2015 to the extent of he be given a further time of one month's period within which the entire compensation amount can be deposited and the default sentence of additional one year of rigorous imprisonment may accordingly be waived.

8. Learned Deputy Government Advocate appearing for the State however submits that it is a case where the present Application now has been filed after about more than 5 years from the date of Judgement dated 16.11.2015 and that no strong justification has been given by Applicant for not complying with the orders passed by this Court in Criminal Appeal No.670/2000 within the reasonable time and therefore the present Application is liable to be rejected.

9. Having heard the contentions put forth on either side and on perusal of record, admittedly, in terms of the Judgment passed by this Court on 16.11.2015 in Criminal Appeal No.670/2000, the Applicant has surrendered on 14.3.2016 and since then he is in jail. The fact that he could not arrange the compensation amount during the intervening period is duly considered and this Court in the larger interest of justice, taking into consideration the findings of the Division Bench in the aforesaid Judgment dated 16.11.2015, grants further one month's time to the Applicant starting from today enabling him to deposit the amount of compensation payable to the Victim. Upon such deposit being made by the Applicant within a period of thirty days from today, the default sentence of additional one year of rigorous imprisonment would stand suspended/waived automatically.

10. Cr.M.P. accordingly stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE

Sd/-
(Rajani Dubey)
JUDGE