

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 587 of 2019

Pradeep Kumar Rai, Aged about 65 years, S/o. Late Shri Ajit Kumar Rai, (Father of Sangeeta Bhattacharya deceased) R/o Vasan Block, Gurunanak Chowk, Near Petrol Pump, Torwa, P. S. Torwa, Bilaspur District Bilaspur Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Police Station Tarbahar, Bilaspur District Bilaspur Chhattisgarh,
2. Anita W/o B. M. Bhattacharya, Aged About 65 Years, R/o Diprapara Thana Tarbahar, Bilaspur District Bilaspur Chhattisgarh,
3. Animesh Bhattacharya, S/o B. M. Bhattacharya, Aged About 43 Years, R/o Diprapara, Bilaspur District Bilaspur Chhattisgarh,
4. Smt. Chandrani Vishwas, W/o Amit Narayan Vishwas, Aged About 36 Years, R/o Diprapara Thana Tarbahar, Bilaspur District Bilaspur Chhattisgarh,

---- Respondents

For the Appellant	:-	Mr. R.R. Sinha and Mr. Ashok Kumar Swarnakar, Advocates
For the respondents	:-	Mr. Lalit Jangade, Dy. GA and Mr. Waquar Naiyer on behalf of Mr. Sabhya Sachi, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board By Manindra Mohan Shrivastava, J.

22.02.2021

1. Heard on the prayer for recall of judgment dated 18.08.2017 has been made on the ground that earlier the applicant had filed a

Criminal Revision No. 238 of 2005 which was disposed of with liberty to raise ground in the pending appeal 622 of 2005 filed by the State against the acquittal. On 21.11.2005, the Court had allowed him to file memo of appearance and directed his name to be published in the cause list but the name of the counsel was not published when the appeal came up for hearing on 18.08.2017 and without hearing the applicant, the appeal filed by the State was dismissed by this Court. Thus, the judgment was rendered without hearing the present applicant and therefore, the judgment of acquittal be recalled.

2. The prayer made by the learned counsel for the applicant is liable to be rejected at threshold because as per order dated 21.11.2005 the applicant was granted liberty to file his memo of appearance. The direction that his name be shown in the cause list was to be understood in this line. The concerned counsel did not file any memo of appearance and therefore, no name was published in the cause list. This court examined the submissions made by learned State against the acquittal and vide judgment dated 18.07.2017 dismissed the State appeal. Considering that the applicant in the present case was only granted permission to assist, we do not find any ground to recall the order of acquittal passed by this Court in the concerned Criminal Appeal. Accordingly the CRMP is dismissed.

Sd/-

Manindra Mohan Shrivastava
Judge

Sd/-

Vimla Singh Kapoor
Judge