

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE Nos.1142 & 1146 OF 2015

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COMMON ORDER:

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Since both the revisions are arising out of the same order and the issue involved is one and the same, they are heard together and being disposed of by this common order.

By the impugned order dated 18.06.2015 the learned Principal Sessions Judge, Warangal while forfeiting the bond for Rs.20,000/- each furnished by the petitioners directed them to pay a sum of Rs.10,000/- and remit the balance amount under Section 446(3) Cr.P.C., in default, to undergo S.I. for one month.

Both the petitioners herein stood as sureties for the release of A.3 in connection with Crime in C.C.No.7 of 2013. However, subsequent to the release, A.3 by name G.Anil Kumar failed to appear before the Court below and N.B.Ws. were issued against him. On the date of issuance of warrant itself, the Court below ordered for forfeiture of surety amount and also cancelled the bail bonds and that A.3 was also remanded to judicial custody on 19.5.2015. After execution of the warrants and remanding A.3 to judicial custody, the Court below directed these petitioners-sureties to pay a sum of Rs.20,000/- which is the amount covered by the bond that was executed by these petitioners for production of A.3 before the Court below, and on failure to pay a sum of Rs.10,000/-, the petitioners were directed to suffer simple imprisonment for one month each.

The entire procedure followed by the Court below in forfeiting the surety amount also cancellation of bail bond is erroneous in law. Once an accused failed to appear before the Court and warrant was issued, necessarily notice should be given to the sureties for their appearance and that they also should be given an opportunity to produce the accused for whom

they stood as sureties. Further sufficient time should also be given to the sureties concerned. In the present case, the trial judge has not chosen to follow the said procedure. Knowing fully well of the fact that A.3 has already surrendered on 19.5.2015 for whom the petitioners stood as sureties, the impugned order was passed by the Court below on 18.6.2015 and since the petitioners were not in a position to pay the amount ordered by the Court below, they were lodged in prison.

For the above reasons, this Court is of the view that the entire procedure followed by the trial judge and also the order of forfeiture of bond amount executed by the petitioners herein and also the direction to pay Rs.10,000/- each by the petitioners herein and the default clause to suffer simple imprisonment for one month is hereby set aside. The petitioners herein shall be released forthwith, if they are not required in any other crime.

Both the revisions are allowed accordingly.

Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

30.06.2015

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