

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-672-SB-2000 (O&M)
Date of Decision: 18.05.2015

Dal Singh

...Appellant(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. J.K. Verma, Advocate
for the appellant.

Mr. Deepak K. Grewal, DAG, Haryana
counsel for the respondent-State.

ANITA CHAUDHRY, J.

1. The present appeal challenges the order dated 12.01.2000, passed by the Addl. Sessions Judge, Jind as a penalty of Rs.50,000/- was imposed on the appellant. He had stood surety for the accused who failed to appear in the Court.

2. The appeal was filed after a delay of 140 days. Delay was condoned on 17.01.2001.

3. While issuing notice of motion, the argument made was that no notice under Section 446 Cr.P.C. had been received by the appellant. To verify the factum of service, the co-ordinate Bench directed the Additional Sessions Judge, Jind to send the notice and the report made there on and also report whether Daya Nand accused, who had

absented from the Court on 12.12.1999 in FIR No.161 dated 03.07.1998, registered under Section 392/397 IPC had subsequently appeared in the Court or not.

4. Report was received that the notice was available on record and there was report about service. The Sub-Inspector Birsal Singh had submitted a report that a notice had been served upon Dal Singh on 10.01.2000. It was also reported that Daya Nand had been produced consequent upon the production warrant issued to the Superintendent, District Jail, Jind on 29.05.2000. It was also reported that Dal Singh's surety had failed to appear despite service of notice and penalty was imposed ex parte.

5. I have heard both the sides.

6. The appellant had stood surety for Daya Nand accused in a case registered under Section 392/397 IPC. He had given an undertaking that accused would appear in the Court on each date of hearing. The accused failed to appear on 10.12.1999. The bail and surety bonds were cancelled. Notice under Section 446 Cr.P.C. was served. The petitioner was given an opportunity to respond but he failed to appear and thereafter, penalty was imposed and proceedings were initiated by the concerned Collector to recover the penalty amount and it is then that the petitioner had approached this Court by way of appeal.

7. The order had been assailed on the ground that no notice had been served but the Addl. Sessions Judge had reported that service had been effected. The original file had

also been called for. I find that the plea taken by the petitioner is incorrect. Service had been effected and the petitioner had not chosen to respond. The petitioner failed to show cause as to why the penalty should not be imposed even then he has not given any explanation as to the reason for the absence.

8. There is no merit in the appeal. The appeal is dismissed. The record shows that process for recovery was initiated earlier but it was stayed by the Court. Copy of the order be sent to the Court below for restarting the process of recovery.

(ANITA CHAUDHRY)
JUDGE

18.05.2015
sunil