

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1282 of 2016**

Nand Kishore Choubey S/o Ishwari Prasad Choubey Aged About 45 Years By
Caste Bramhan, Resident of Village Amakhokhra, Police Station Katghora,
Revenue And Civil District Korba (Chhattisgarh).

---- Appellant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station - Katghora,
District Korba (Chhattisgarh).

---- Respondent

For Appellant	:	Shri Rajesh Kumar Sharma and Shri Vinod Tekam, Advocates.
For Respondent/State	:	Shri Bhaskar Pyasi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/11/2016**

1. Heard on IA No.1, which is an application for condonation of delay.
2. For the reasons assigned in the application and the same found to be satisfactory, IA No.1 is allowed and delay of 17 days in filing this appeal is condoned, and with the consent of the parties the matter is taken up for hearing finally.
3. The present petition has been preferred assailing the order dated 17.12.2015 passed by the Sessions Judge, Korba in Criminal MJC No.22/2015 ordering for forfeiture of the security amount of Rs.50,000/- which has been deposited by the present appellant as a guarantor of the accused Pradeep Jaina who was prosecuted for the offence under Sections 328 and 379 IPC in Sessions Trial No.28 of 2013, which is pending consideration before the Sessions Judge, Korba.

4. The said accused Pradeep Jaina is said to have defaulted in entering appearance before the court below after obtaining bail. Because of the default on the part of the accused Pradeep Jaina, proceedings were drawn against the present appellant vide Criminal MJC No.22 of 2015 and after due consideration of the submissions, the court below vide order dated 17.12.2015 has ordered for forfeiture of the security amount of Rs.50,000/- deposited by the present appellant, leading to filing of present appeal.
5. The contention of learned counsel for the appellant is that, the present appellant is a poor villager and due to inadvertence and bonafide belief he stood as a guarantor of the accused Pradeep Jaina without knowing that the said accused would ultimately default in his appearance. He further submits that a lenient view may be taken in favour of the appellant considering his economic condition. It is further submitted that the amount of Rs. 50,000/- which has been ordered to be forfeited is on the higher side and the court below should have reduced the same. Thus, prayed for quashment of the order impugned.
6. State counsel however opposing the appeal submits that in the instant case, the accused Pradeep Jaina was prosecuted for a serious offence and since there was default on the part of accused Pradeep Jaina, the court had no other option but to initiate proceedings against the person who stood guarantor while furnishing bail of the said accused Pradeep Jaina. According to State counsel, the court below cannot be said to have committed any illegality or infirmity in initiating proceedings against the guarantor on default committed by the accused in making appearance. The order passed by the court below is in accordance with law. Thus,

prayed for rejection of the appeal.

7. Considering the facts and circumstances of the case and taking into consideration the nature of the allegations levelled against the accused Pradeep Jaina and the default committed by the said accused , this court is of the opinion that the court below has not committed any error of law or on facts while ordering forfeiture of security amount of Rs.50,000/- which was deposited by the present appellant as a guarantor of accused Pradeep Jaina.
8. Accordingly, the appeal fails and is dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE

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