

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i) CRA No.S-1365-SB of 2016 (O&M)

Om Parkash

...Appellant

Versus

The State of Haryana

...Respondent

(ii) CRA No.S-1375-SB of 2016 (O&M)

Dharamvir

...Appellant

Versus

The State of Haryana

...Respondent

Date of decision: August 22, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Surinder Gandhi, Advocate
for the appellants.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Both the above-mentioned appeals are taken up together for decision as the point for the determination in both the cases is the same.

The appellants have filed these appeals challenging the orders dated 29.02.2016 passed by learned Addl. Sessions Judge, Rohtak, vide which penalty of ₹50,000/- has been imposed upon the appellants.

Notice of motion was issued and learned State counsel

appeared and contested the appeals.

I have heard learned counsel for the appellants as well as learned State counsel and have gone through the record.

From the record, I find that the present appellants namely Om Parkash and Dharamvir stood surety for the accused Ashok @ Mental in case FIR No.438/2011 under Section 302 IPC registered at Police Station Sampla. The accused absented from the proceedings and learned Addl. Sessions Judge, Rohtak, vide impugned order imposed penalty of ₹50,000/- on each of the appellant.

Learned counsel for the appellants argued that at the time of imposing penalty, the accused was already lodged in Gurgaon Jail. He further argued that the appellants are poor persons and when the accused is already lodged in jail, then question of producing the accused before the trial Court does not arise. He also argued that if the accused would not have been lodged in the jail, then, the appellants might have produced him before the trial Court in this FIR. Learned counsel for the appellants only prayed for reduction of penalty imposed upon the appellants and did not contest the fact that accused absented from the proceedings, though counsel states that when the impugned orders were passed, at that time, the accused was arrested in another case.

Keeping in view the facts and circumstances of the present case, the penalty amount is reduced and both the appellants are directed to pay ₹15,000/- each as penalty instead of ₹50,000/- each. The amount of ₹15,000/- has already been deposited by each of the appellants before lower Court in view the interim order passed by this Court.

With the above-said modification in the penalty amount, both

the appeals stand partly allowed.

August 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No