

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

**CRA-S-113-SB-2015 (O&M)
Date of Decision: January 21, 2016**

Dhirja Appellant

vs.

State of Haryana Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.S. Sahu, Advocate for the appellant.

Ms. Supriya Arora, Addl. Advocate General, Haryana.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present appeal is the orders dated 07.08.2013 and 17.07.2014 passed in an application filed under Section 446(3) Cr.P.C. passed by learned Addl. Sessions Judge, Fatehabad.

Brief facts of the case are that the present appellant had stood surety of one Satbir, who was accused in FIR No.169, dated 17.04.2012, under Sections 302, 379, 120-B, 148, 149 IPC and 25 & 27 of the Arms Act, 1959, registered at Police Station City Fatehabad.

On 23.05.2013, said Satbir failed to appear in the court. Accordingly, a show cause notice was ordered to be issued to the present appellant being surety. The present appellant did not appear on the said date and accordingly, ₹50,000/- were imposed upon him as penalty under Sections 446 Cr.P.C.

The appellant after being relegated by this Court availed the remedy before the concerned court and approached the court of learned Addl. Sessions Judge, Fatehabad, where the case is pending. Vide order dated 17.07.2014, his application for remission of penalty impugned under Section 446(3) Cr.P.C. was dismissed.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

Learned counsel for the appellant states that Satbir was in custody in some other case and order dated 07.08.2013 placed on file shows that Satbir was later on produced by way of production warrants. Therefore, it is argued that there is no fault on the part of the appellant-surety.

However, impugned order shows that when Satbir did not appear and a show cause notice was issued to the surety in the present case, surety did not appear in the court to explain that Satbir is in judicial custody with regard to some other case pertaining to FIR No.170, dated 19.05.2013. Despite the fact that Satbir had absconded, the court was not informed by the surety. Therefore, there is some fault on the part of the appellant-surety. Thus, after considering the facts and circumstances, the present appeal is partly allowed and the penalty of ₹50,000/- imposed upon the surety is reduced to ₹5,000/-.

January 21, 2016
sarita

(KULDIP SINGH)
JUDGE