

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

**CRA No.S-2171-SB of 2016 (O&M)
Date of decision: September 19, 2016**

Jagdev

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Virender Soni, Advocate
for the appellant.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The appellant has filed this appeal challenging the order dated 02.12.2015 passed by learned Sessions Judge, Rohtak, vide which penalty of ₹50,000/- has been imposed upon the appellant.

Notice of motion was issued and learned State counsel appeared and contested the appeals.

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

As per copy of the order dated 14.10.2015 placed on record as Annexure A-1, accused Balwan @ Kalu absented from the proceedings and he was ordered to be summoned through warrant of arrest for 10.11.2015 and notice to his surety (present appellant) was also issued. As per another interim order dated 10.11.2015, which is placed on record as Annexure A-2,

warrant of arrest of accused Balwan was received unexecuted but surety

(present appellant) stated that accused Balwan is admitted in PGIMS, Rohtak for some ailment and he would produce him on the next date of hearing and fresh warrant of arrest of accused Balwant was issued for 02.12.2015. On 02.12.2015, present appellant absented from the proceedings and penalty of ₹50,000/- under Section 446 Cr.P.C. was imposed upon the surety-present appellant.

As per interim order dated 19.01.2016, which is placed on record as Annexure A-3, accused Balwan surrendered before the Court and he was taken into custody.

At the time of arguments, learned counsel for the appellant did not challenge the order of imposing the penalty but only prayed for reduction of the penalty amount. He further contended that appellant made efforts for production of accused and he produced the accused in the Court.

Keeping in view the facts and circumstances of the present case and in view of the fact that accused Balwan surrendered before the Court within a short span, the penalty under Section 446 Cr.P.C. imposed upon the appellant, which is on higher side, is reduced and the appellant is directed to deposit ₹10,000/- instead of ₹50,000/- within one month from receiving the certified copy of this order, otherwise, the trial Court will recover the same as per law.

With the above-said modification in the penalty amount, the appeal stands partly allowed.

September 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE