

CRA-S-1873-SB-2005

[1]

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

(Sr. No.349)

CRA-S-1873-SB-2005

Date of Decision:-April 28, 2017

Sukhdev Singh and another

.....Appellants

V/S

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present : Mr. G.S. Benipal, Advocate,
for the appellants.

Mr. Abhishek Chautala, DAG Punjab.

A.B. Chaudhari, J. (Oral)

Heard learned counsel for the rival parties.

The present appeal is directed against the order dated 03.10.2005 passed by the Additional Sessions Judge, Barnala in Sessions Case No.54 of 20.11.2003 that was ultimately decided by judgment of acquittal on 11.12.2006.

By the impugned order after forfeiting the surety that was furnished for accused-Chamkaur Singh by the present appellants, the bond amount of Rs.1,00,000/- each was ordered to be recovered by attaching the property of the appellants. There were ten accused persons in Sessions Case No.54 of 20.11.2003 arising out of FIR No.103 dated 15.08.2003 for offence under Sections 120-B and 115 of Indian Penal Code, 1860 at Police Station Bhadaur, District Barnala. When the said trial was posted on 02.09.2005 accused-Chamkaur Singh remained absent. The trial Court, therefore, issued show cause notice to the appellants as to why the surety furnished by them should not be forfeited to the State and the notice was

made returnable on 03.10.2005. Simultaneously, the trial Court issued non-bailable warrants for arrest of the accused persons who appeared before the trial Court in police custody pursuant to the non-bailable warrants issued by the trial Court. The trial Court, however, passed the impugned order forfeiting the surety furnished by the appellants and ordered them to pay ₹1,00,000/- each to the State of Punjab.

I have perused the reasons given by the trial Court in the impugned order. It is not in dispute that it is only on one date namely 02.09.2005 the accused persons remained absent and the trial Court had cancelled their bail bonds. It is also not in dispute that immediately on the next date i.e. 27.10.2005 pursuant to the non-bailable warrants their presence was secured by the police who executed the non-bailable warrants and they were accordingly produced before the trial Court. Therefore, there was not much delay in the trial nor there was any deliberate intention on the part of the appellants to screen the accused persons, particularly because the trial was not obstructed nor the appellants could be held to be responsible for delaying the trial. At any rate, the accused persons appeared before the trial Court and ultimately the trial went on. It is also significant to note that in the trial finally the trial Court pronounced the judgment on 11.12.2006 and acquitted all the accused persons of the charge framed against them.

In that view of the matter, according to me the trial Court was not justified in imposing penalty of Rs.1,00,000/- each on the appellants to be forfeited to the State of Punjab. The impugned order imposing such a heavy penalty was not called for.

This Court had admitted the appeal on 27.10.2005 and suspended the operation of the impugned order, subject to deposit of

₹35,000/- each by the appellants.

Learned counsel for the appellants states that according to the said order amount of ₹35,000/- each i.e. total ₹70,000/- was deposited with the trial Court. Since, I have come to the conclusion that there was no need to impose any penalty particularly because the accused persons were arrested and brought before the Court immediately on the next date. It is not that the trial was prolonged even by a single date thereafter. Therefore, there is no justification for forfeiting or retaining the total amount of ₹70,000/- deposited by both the appellants. Pertinently the accused persons in the trial were eventually acquitted. In the result, I make the following order.

ORDER

1. CRA-S-1873-SB-2005 is allowed.
2. The impugned order dated 03.10.2005 passed by the Additional Sessions Judge, Barnala in Sessions Case No.54 of 20.11.2003 is quashed and set aside.
3. The trial Court is directed to pay back the amount of ₹35,000/- each (total ₹70,000/-) to the respective appellants within a period of two months after service of this order in the trial Court by the appellants.
4. Disposed of.

April 28, 2017

Pankaj

(A.B. Chaudhari)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No