

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

CRA No.S-1706-SB of 2016 (O&M)

Date of Decision:- December 15, 2017

Balwinder Kaur

...Appellant

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gurpreet Singh, Advocate
for the appellant.

Ms.Simranjeet Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

Respondent No.2-given up.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against respondents State of Punjab and Narinder Kaur, challenging the order dated 12.04.2016 passed by learned Sessions Judge, Amritsar.

Notice of motion was issued. Learned State counsel appeared and contested the appeal.

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

From the record, I find that appellant Balwinder Kaur stood surety for accused Narinder Kaur and furnished surety bond on 20.03.2014, thereby binding herself to cause appearance of Narinder Kaur in the Court

on each and every date of hearing and in case of default, to forfeit the amount of surety bond to the State of Punjab. During the pendency of the appeal, accused Narinder Kaur absented from the proceedings, with the result, the surety bond furnished by present appellant Balwinder Kaur were also cancelled. Notice under Section 446 Cr.P.C. was issued to the appellant but she did not appear, as a result of which, penalty of ₹1 lakh was imposed upon her vide order dated 11.09.2015.

As per the order dated 11.09.2015, notice sent to Balwinder Kaur received back duly served but she did not come present and it is ordered that since she has nothing to say, so penalty of ₹1 lakh is imposed upon her. It is further ordered that her property is situated in the area of District Patiala, as such, recovery warrant be sent to the Collector, Patiala, under Section 421(b) Cr.P.C. to realize the amount as arrears of land revenue from the movable or immovable property of surety Balwinder Kaur returnable by the next date of hearing fixed in the case. Then, the property of Balwinder Kaur was attached and permission to put such property on auction for recovery of ₹1 lakh has also been accorded to Assistant Collector-II, Patiala. Thereafter, present appellant Balwinder Kaur filed an application for recalling the warrant and the Court below, vide impugned order dated 12.04.2016 held that no ground is made out for recalling the warrant.

In the present case, learned counsel for the appellant only prayed for reduction of surety amount and stated that after whatever amount is reduced, remaining will be paid by the appellant. He also contended that accused Narinder Kaur has already been arrested with the help of present

Keeping in view the facts and circumstances of the present case and in view of the fact that accused has not been declared as proclaimed offender and has already been arrested, a lenient view is taken in the interest of justice against the appellant being poor lady and penalty of ₹1 lakh is reduced to ₹30,000/-.

With the above-said modification in the penalty amount, the present appeal stands dismissed.

December 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No