

259.

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

CRM-M-32916-2017

Date of decision:15.11.2017.

RAJA RAM AND OTHERS

... Petitioners

Versus

STATE OF HARYANA AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Jasinder Singh Thind, Advocate,
for the petitioners.

Mr. Ashok Singh Choudhary, Additional Advocate
General, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for setting aside the order dated 31.07.2017 (Annexure P-12) in case FIR No.116 dated 20.05.2005 under Sections 392/394/395/397 IPC read with Section 25 of Arms Act, Police Station Hodal, passed by learned Chief Judicial Magistrate, Faridabad, declining prayer of the petitioners to release the property which was otherwise attached by this Court while submitting the surety in CRA-S-2161-SB-2007 titled as 'Virender and another Versus State of Haryana'. Further, the petitioners were not allowed to deposit the attachment money of ₹ 50,000/- before the learned Chief Judicial Magistrate, Palwal, in lieu of land attached for that purpose.

Learned counsel for the petitioners has argued that Het Ram-father of petitioners stood surety to the accused Virender for a sum of ₹50,000/-. Virender was an accused in the aforesaid FIR. Pursuant to the letter dated 07.02.2008, written by the learned Chief Judicial Magistrate, the then Tehsildar, Hodal, was directed to make a permanent entry in the revenue record of the property owned by Het Ram. However, Het Ram expired on 19.11.2016 and after his death, the property was inherited by the petitioners, but the property is not being transferred in the name of the petitioners for the reason that there is a stray entry in the revenue record. Counsel has argued that as Het Ram has died on 19.11.2016 and there is a stray entry in the revenue record, in order to get the said property released, the petitioners are ready to deposit ₹ 50,000/- as surety amount. He has relied upon Delhi High Court judgment rendered in **Zoro Daniel Versus State-2012(6) R.C.R. (Criminal) 1848.**

Learned State counsel on the basis of reply so submitted by respondent No.1, does not dispute the aforesaid facts and states that there is a specific provision under Section Section 447 Cr.P.C. which strictly deals such like eventualities.

I have heard learned counsel for the parties.

Section 447 of Cr.P.C. reads as under:-

“Procedure in case of insolvency or death of surety or when a bond is forfeited

When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 446, the Court by whose order such bond was taken, or a

Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.”

Taking into consideration the provisions of Section 447 Cr.P.C., this Court finds that the order dated 31.07.2017 (Annexure P-12) passed by learned Chief Judicial Magistrate, Faridabad (now Palwal) is liable to be quashed. In case the petitioners deposit ₹50,000/- as surety amount for which the father of the petitioners stood surety of Virender, the entry in the revenue record shall be corrected accordingly and the property shall be released to the petitioners.

With the aforesaid observations, present petition is allowed.

(HARI PAL VERMA)
JUDGE

15.11.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No