

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

Hemlata
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CRM-M-35876-2017(O&M)

Date of decision: 25.09.2017.

Bahadur Singh and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sagar Aggarwal, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 09.01.2017 (Annexure P-3) passed by the Lower Appellate Court vide which personal bonds of the petitioners were forfeited as well as the order dated 01.08.2017 (Annexure P-4) passed by the Appellate Court vide which, the petitioners were directed to pay a penalty of Rs.25,000/- each in case FIR No.145, dated 07.04.2014 under Sections 323, 324, 506 and 34 IPC registered at Police Station Pehowa, District Kurukshetra.

Brief facts of the case are that the petitioners faced trial in aforesaid FIR and were acquitted by the trial Court, vide judgment dated 15.12.2015. The complainant filed an appeal before the Lower Appellate Court and in pursuance to notice, the petitioners appeared and were released on personal bonds by the Appellate Court vide order dated 06.05.2016.

Learned counsel for the petitioners submits that on previous date i.e. 06.05.2016, the case was adjourned to 09.01.2017 and on account of noting a wrong date by the counsel of the petitioners, neither the petitioners nor their counsel could appear before the trial Court on 09.01.2017 and accordingly, the personal bonds were forfeited. Later on, the petitioners along with their counsel appeared before the Appellate Court

on the next date i.e. 01.08.2017 and applied for fresh personal bond and the Appellate Court, by directing the petitioners to furnish a fresh personal bonds with a sum of Rs.50,000/- each, released the petitioners. However, the Appellate Court has directed the petitioners to deposit amount of personal bond i.e. Rs.25,000/- each before the next date of hearing.

Learned counsel for the petitioners submits that the trial Court, on one hand directed the petitioners to furnish personal bonds of double of the amount which was submitted at the time of furnishing bond at the first instance and on the other hand, had directed the petitioners to deposit an amount of Rs.25,000/- each for a single default of appearance before the Appellate Court. It is further submitted that as per provisions of Section 446 Cr.P.C., before directing the petitioners/accused to deposit the aforesaid amount of Rs.25,000/- each, neither any show cause notice was issued nor any opportunity of hearing was granted to them. It is also submitted that petitioners were acquitted by trial Court and before Appellate Court they have furnished personal bond which can not be equated with bail/surety bonds.

Notice of motion.

At the asking of the Court, Mr. Naveen Sheoran, DAG, Haryana, accepts notice on behalf of the respondent-State. Copy of the petition has been furnished to him during the course of the hearing.

After hearing learned counsel for the petitioners, I find that the impugned order dated 09.01.2017 (Annexure P-3) has been passed on the same day when the petitioners were directed to furnish their fresh personal bonds with a sum of Rs.50,000/- each. As per provisions of Section 446 Cr.P.C. the procedure was not followed by the Appellate Court. Therefore,

the impugned order dated 01.08.2017 is set aside qua the direction given to the petitioners to deposit the amount of Rs.25,000/- each. The Appellate Court is directed to pass a fresh order in accordance with law by taking a lenient view qua the amount to be deposited considering the fact that petitioners are respondents in an appeal against acquittal.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

25.09.2017
Hemlata

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