

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.31 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Ramanand Yadav son of Amar Yadav
 2. Muni Mukhia son of Late Yadu Mukhia
- Both are the resident of Village-Rampur, Police Station Laukaria,
District-West Champaran

.... Appellants

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Mr. Ramswaroop Prasad (amicus
Curiae)

For the Respondent/s : Mr. Balmukun Prasad Sinha
(A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-03-2018

None appeared on behalf of the appellant. Sri Ram
Swaroop Pd. is appointed as Amicus curiae to assist the Court.

Heard learned amicus curiae and learned A.P.P.

This appeal is filed against the impugned order dated
2.12.2008 passed by the learned F.T.C. IInd Bettiah (West
Champaran) in Trial No. 44/05 by which the learned Court below has
directed the appellants to deposit the amount of sureties of Rs.



10,000/- of each within a period of two weeks in the Court below.

The L.C.R. has been received in this appeal.

From perusal of the L.C.R., it appears that both the appellants became bailor of accused Malkha Mallah on sureties of Rs. 10,000/-. Accused Malkha Mallah was granted regular bail by this Hon'ble Court vide order dated 12.11.2007 passed in Cr. Misc. No. 48076/07 with condition that the accused will not remain absent on two consecutive dates till two witnesses are examined in the trial. But after release from jail custody the accused Malkha Mallah absconded. These appellants became bailor of Malkha Mallah at the time of his release in terms of aforesaid order of this Hon'ble Court.

The learned F.T.C. II, Bettiah (West Champaran) cancelled the bail bond of Malkha Mallah as he did not comply the order of the Hon'ble Court dated 12.11.2007 passed in Cr. Misc. No. 48076 of 2007. The Court below directed Malkha Mallah to surrender before the Court. Thereafter the accused voluntarily surrendered before the Court below on 21.07.2008. But accused Malkha Mallah again absconded from the Court custody on the same day. Thereafter the Court below issued processes U/s 82 and 83 of the Cr.P.C. against the accused. The show cause notice was also issued to the bailors (appellants) on the same day i.e. on 21.07.2008. The appellants filed their show cause before the learned F.T.C. IInd, Bettiah (West



Champaran).

After perusing the show cause of the appellants the learned F.T.C. IInd, Bettiah (West Champaran) U/s 446 Cr. P.C. passed the order and directed the appellant to deposit the amount of Rs. 10,000/- as sureties of each appellant before the learned Court below within a period of two weeks since they have stood bailors of accused Malkha Mallah after furnishing the bail bond of Rs. 10,000/-. The appellants have filed the instant appeal against the aforesaid order.

The L.C.R. has been received in this case.

From perusal of the Lower Court Record it appears that because of pendency of this criminal appeal and transmission of Lower Court Record in this Court, no progress has been made in the trial in the Court below against the accused persons namely, Malkha Mallah and Triveni Mallah against whom, charge has been framed for the offence U/s 20B and 22B of the N.D.P.S. Act.

These appellants were bailors of the accused person who has absconded. Therefore in terms of provision of Section 446 Cr.P.C., the bonds executed by the appellants have been forfeited.

Therefore this Court does not find any illegality in the impugned order. This Criminal Appeal is accordingly dismissed.

The office is directed to return the entire Lower Court Record at once. The Court below shall proceed with the trial and take



all steps for securing appearance of the absconding accused person in accordance with law including the steps as required in law against the bailors.

. (Sanjay Priya, J)

Kamlesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2018
Transmission Date	21.03.2018

