

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

CRA-S-2222-SB-2004

Date of decision:-3.4.2018

Dalbir Singh

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Abhimanyu Kalsy, Legal Aid counsel
for the appellant.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Under challenge in this appeal is order dated 18.10.2004 passed by Presiding Officer, Special Court, Kurukshetra vide which surety – Dalbir Singh was ordered to undergo civil imprisonment for a period of six months in lieu of penalty amount of Rs.20,000/- imposed upon him under Section 446 Cr.P.C.

Briefly stated facts of the case are that Dalbir Singh had stood surety for appearance of accused – Mantoon Singh @ Mantu in the Court in a case registered vide FIR No.76 dated 1.12.2002, under Sections 20(B) (1) of the NDPS Act registered at Police Station GRP, Kurukshetra. The accused had jumped bail in July, 2003. He did not appear despite issuance

of warrants of arrest against him repeatedly. His sureties were given time to trace him and cause his appearance in the Court but they were unable to do so and they were served with notice under Section 446 Cr.P.C. on 17.9.2004 and were given last chance to trace and produce the accused. In the meanwhile, surety Kirpal Singh had also absconded. Thereafter, he (surety Dalbir Singh) availed of three more chances but could not cause appearance of accused in the Court. Therefore, penalty of Rs.20,000/- was imposed upon Dalbir Singh, who had stood one of the surety for appearance of accused Mantoon Singh @ Mantu in the Court. Surety Dalbir Singh made a statement before the Court that he was not in a position to make payment of the penalty amount and he was not possessed any property from which it could be recovered. He further stated that none of his relative was ready to defend him and to pay the penalty amount. Therefore, observing that it would be a futile exercise to issue recovery warrants to effect recovery of the penalty amount as arrears of land revenue, Dalbir Singh surety was ordered to be sent to civil imprisonment for a period of six months in lieu of the penalty amount. He was ordered to be taken into custody and committed to jail to undergo civil imprisonment.

Notice of the appeal was given to respondents and State appeared through State counsel.

I have heard learned counsel for the parties besides going through the record.

In my considered view, the impugned order passed by learned Presiding Officer, Special Court, Kurukshetra is well reasoned one, based upon proper appraisal and appreciation of record and correct

interpretation of law. There is no illegality or infirmity therein. The same is upheld, whereas appeal is found to be without any merit and the same is dismissed accordingly.

Necessary intimation be sent to the quarter concerned.

3.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No