

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

CRA-S No.224-SB of 2018 (O&M)

Decided on: 18.01.2018

Pardeep

....Appellant

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Harmanpreet Kaur, Advocate for the appellant.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-1713-2018

Prayer in this application is for condoning delay of 73 days in filing the appeal.

Heard.

In view of averments made in the application, the application is allowed and delay of 73 days in filing the appeal stands condoned.

MAIN CASE

Prayer in this appeal is for setting-aside the impugned order dated 05.09.2017 passed by the Additional Sessions Judge, Ambala vide which while conducting the proceedings under Section 446 Cr.P.C. a fine of Rs.50,000/- has been imposed on the appellant.

Notice of motion.

Ms. Harpreet Kaur, AAG, Haryana who is present in the Court accepts notice on behalf of the respondent.

Counsel for the appellant has submitted that the appellant stood surety for the accused person namely Chatar Singh in FIR No.302

dated 05.09.2016 under Sections 379-A(1), 411 read with Section 34 IPC and the said accused absented from the Court proceedings and a notice under Section 446 Cr.P.C. was issued to the appellant by the trial Court. The appellant appeared before the trial Court and has deposited an amount of Rs.15,000/- vide receipts (Annexure A1).

Counsel for the appellant has further submitted that the appellant is a poor persona and has no source of income to deposit the huge amount of Rs.50,000/-. Counsel for the appellant has relied upon the order dated 01.02.2016 passed in CRA-S No.3697-SB of 2015 wherein in similar circumstances, the penalty of Rs.50,000/- imposed under Section 446 Cr.P.C. was reduced to Rs.5,000/- and a similar view has been taken by this Court in the order dated 13.11.2013 passed in CRA-S No.3519-SB of 2013.

Counsel for the respondent – State has submitted that the impugned order has been passed by the trial Court as a last resort as despite the efforts made by the Court and the police authorities, the accused – Chatar Singh has not appeared.

After hearing counsel for the parties, the appeal is disposed of with a modification in the impugned order dated 05.09.2016 passed by the Additional Sessions Judge, Ambala City to the extent that the amount of penalty of Rs.50,000/- imposed to be recovered from the appellant is reduced to Rs.15,000/- already deposited by him.

Disposed of accordingly.

18.01.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No