

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-M-15529-2018 (O&M)
Date of Decision: 19.04.2018

Jatin Khatri

...Petitioner

Versus

Mahesh Khatri

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. S.K. Tripathi, Advocate, for the petitioner.

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner seeks quashing of the order dated 12.02.2018 (Annexure P-3), passed by the learned Additional Sessions Judge, Faridabad, imposing a condition upon the petitioner to furnish a bank guarantee/draft/FDR in favour of the complainant for an amount of Rs.1.87 lacs.

Learned counsel for the petitioner has cited a judgment of a coordinate Bench of this Court, passed in CRM-M-37682 of 2017 and CRM-M-37685 of 2017, titled as **Arvind and another v. Joginder Singh Bedi**, decided on 01.12.2017.

Having considered the above, the petitioner himself having admitted in his testimony as per the judgment of the learned trial court (reference paragraph 16 thereof), that he had taken a total loan of Rs.3.5 lacs from the complainant, though the petitioner is still in appeal against that judgment of conviction, in my opinion, the condition imposed by the learned Appellate Court, of the petitioner furnishing at least a bank guarantee for an amount of Rs.1.87 lac, conditional upon which his sentence

would remain suspended as imposed by the trial court, is not an unreasonable condition, with that Court naturally having observed that if the appeal eventually succeeds, the bank guarantee would stand discharged.

Learned counsel for the petitioner submits that the observation of this Court hereinafore would prejudice his right in the appeal, as regards his admission in his testimony.

It is made clear that the observation of this Court is only in the context of the present petition with regard to an allegedly unreasonable amount having been ordered to be paid/bank guarantee furnished, by the Appellate Court, as a condition precedent to suspension of sentence, and it would not be taken as an observation on the merits of the case in the appeal itself.

As regards the un-reasonability of the amount, the judgment of the Supreme Court in **Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. & Anr**, 2007(2) RCR (CrI.) 636, can be referred to, wherein their Lordships have held that even in terms of Section 357 (2) Cr.P.C., a reasonable amount can be ordered to be paid by the Appellate Court as a condition precedent to suspension of sentence.

In my opinion, the cheque amount itself being of Rs.3.5 lacs, a bank guarantee of Rs.1.87 lacs is not at all unreasonable, because if eventually compensation is to be awarded to the complainant, it would also include interest etc, other than the actual cheque amount.

Thus, finding no merit in the petition, it is dismissed.

19.04.2018
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: no