

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

CRM-M-32098-2018 (O&M)

Date of Decision:-31.7.2018

Jangir Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sarbjit Singh Grewal, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner assails order dated 25.3.2015, whereby the learned Additional Sessions Judge, Mansa, while being seized of proceedings under Section 446 Cr.P.C., has imposed a penalty of ₹ 1 lac upon surety in case FIR No.73 dated 29.9.2013 registered under Sections 399 and 402 of Indian Penal Code, 1860 at Police Station Jurikian.

Notice of motion.

On asking of the Court, Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

A few facts necessary to notice for disposal of this petition are that the petitioner had furnished surety for release of Kaptan Singh on bail in case FIR No.73 dated 29.9.2013 registered under Sections 399 and 402 of Indian Penal Code, 1860 at Police Station Jurikian. However, on account of the absence of Kaptan Singh, the learned trial Court initiated proceedings

under Section 446 Cr.P.C. and issued notice to the petitioner. However, despite issuance of the said notice, the petitioner did not appear and did not file any reply and resultantly the learned trial Court vide impugned order dated 25.3.2015 imposed a penalty of ₹ 1 lac upon the petitioner.

The learned counsel for the petitioner has submitted that, upon inquiries he came to know that in fact Kaptan Singh has expired on 8.8.2016. The learned counsel for the petitioner has thus prayed for waiving of the penalty as imposed upon him.

On the other hand, the learned State counsel has submitted that no justifiable explanation is forthcoming as to why the petitioner did not produce the accused for a period of more than one year after said Kaptan Singh absented from the proceedings and as to why he did not file any reply to the notice issued under Section 446 Cr.P.C.

Having heard the learned counsel for the petitioner and also the learned State counsel though I find that no justifiable explanation is forthcoming as to why the petitioner did not take effective steps for producing the accused for more than one year after he absented from proceedings in year 2015 and before his death on 8.8.2016 but at the same time in view of the peculiar facts that the accused Kaptan Singh has since expired, it may not be possible for the petitioner to seek return of any amount, which he has to deposit pursuant to the impugned order.

Bearing in mind the aforesaid facts and circumstances and while taking a lenient view on account of peculiar facts, the impugned order is modified to the extent that the petitioner shall deposit an amount of ₹ 50,000/- as penalty instead of ₹ 1 lac as ordered vide order dated

25.3.2015. The aforesaid amount of ₹ 50,000/- shall be deposited within a period of one month from today failing which the petitioner will be required to pay the entire amount of ₹ 1 lac.

The petition stands accepted partly with the aforesaid modification in order dated 25.3.2015 passed by learned Additional Sessions Judge, Mansa.

31.7.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No