

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

271

CRM-M-8346-2015

Date of Decision:20.11.2018

Varinder Kumar Bhalla and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Sunil Kumar Bhardwaj, Advocate,
for the petitioners.

Mr. Ripu Daman, A.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for setting aside the order dated 07.07.2009 passed by the District Collector, Ambala, for making recovery of ₹2 lac each deposited on account of surety bonds from the land revenue as well as the order dated 10.12.2014 passed by learned Sessions Judge, Ambala, whereby appeal filed by the petitioners against the order dated 07.07.2009, was dismissed.

Briefly stated, an FIR No.283 dated 15.04.2003 under Sections 387, 507, 392, 364, 506, 384, 212, 213, 214, 215 IPC, Police Station Sector-5, Panchkula was registered against Munish Bhalla, who is son of petitioner No.1-Varinder Kumar Bhalla and nephew of petitioner No.2-Rajesh Kumar. Munish Bhalla was convicted in this FIR. After conviction, petitioner No.1 moved an application for the release of his son Munish Bhalla on parole, which was allowed and

vide order dated 04.07.2008, Munish Bhalla was released on parole for a period of six weeks subject to his furnishing bail bonds and surety bonds in the sum of ₹2 lac each with two sureties. In this manner, petitioners were the sureties to Munish Bhalla for securing his surrender after completion of parole period. The petitioners deposited ₹2 lac each in the shape of two FDRs before the District Magistrate, Ambala. However, on completion of the period of parole, Munish Bhalla did not surrender, which led to forfeiture of the surety bonds, for which the District Magistrate vide order dated 15.09.2008 issued a show cause notice to the petitioners and vide order dated 07.07.2009 (Annexure P-2), learned District Collector, Ambala, issued an order to recover the amount of sureties from the petitioners as arrears of land revenue and to deposit the same with the Govt. Treasury. The order dated 07.07.2009 passed by the District Collector, Ambala, was challenged by way of appeal before the Sessions Judge, Ambala, but the same was dismissed vide order dated 10.12.2014, observing therein that the petitioners have committed breach of conditions of surety bonds, which they had furnished before the District Magistrate and despite sufficient opportunities, the petitioners have failed to produce convict Munish Bhalla before the jail authorities.

Learned counsel for the petitioners states that no doubt Munish Bhalla did not surrender before the trial court after completion of parole on 28.08.2008, but on 09.01.2012, he appeared before the trial court. The petitioners being father and uncle of Munish Bhalla

had furnished surety bonds considering the fact that he would surrender on completion of parole, but as Munish Bhalla had not surrendered within the period allowed, the learned District Collector forfeited the surety bonds furnished by the petitioners. Even otherwise, the Hon'ble Apex Court vide dated 09.05.2014 in CRLMP No.9448/2014 in Criminal Appeal No.584 of 2013 (Munish Bhalla Versus State of Haryana) had admitted Munish Bhalla on bail, subject to his furnishing bail bonds and sureties to the satisfaction of the trial court. In this manner, the Hon'ble Apex Court had taken note of the conduct of Munish Bhalla and accordingly granted him bail. He further states that forfeiture of surety bonds has caused an adverse financial affect on the condition of the petitioners who are not financially well off.

Learned State Counsel has argued that since Munish Bhalla, who is the son of petitioner No.1, for whom the petitioners stood sureties, has not surrendered after completion of parole period, the surety bonds have rightly been forfeited and there is no scope for further interference.

I have heard learned counsel for the parties.

There is no dispute that Hon'ble the Apex Court vide order dated 09.05.2014 had admitted Munish Bhalla on bail. It is not the case of the State that Munish Bhalla was arrested for non-appearance/surrender on completion of parole period. Munish Bhalla was never arrested rather he had surrendered before the jail authorities at his own of course after a substantial period of time. The petitioners

being father and uncle of accused-Munish Bhalla, it was but natural for them to get their son released on parole for which they stood as sureties. The petitioners furnished sureties for a substantial amount of ₹2 lac each and it was Munish Bhalla who had to surrender on expiry of the parole period on 28.08.2018. No doubt, once the petitioners had executed the surety bonds for the release of their son, it was incumbent upon them to ensure compliance of the terms on which they stood as sureties. But at the same time, it is not the case of the prosecution that Munish Bhalla had repeated such like acts in not surrendering before the jail authorities. This Court finds that the surety bonds were for an excessive amount and therefore, while maintaining the order of forfeiture of sureties, the same order is modified to the extent that ₹2 lac each as surety be considered ₹25,000/- each and the amount beyond ₹50,000/- is therefore ordered to be returned to the petitioners, as Munish Bhalla had surrendered before the jail authorities and was thereafter admitted on bail by the Apex Court.

Accordingly, the present petition is disposed of with a modification in the impugned order dated 07.07.2009 passed by the District Collector, Ambala as well as order dated 10.12.2014 passed by learned Sessions Judge, Ambala, to the extent that an amount of ₹25,000/- each be considered surety from the petitioners instead of ₹2 lac.

November 20, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No