

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

CRA-S No.2773-SB of 2016 (O&M)

Date of decision: 01.10.2019

Santosh and another

....Appellants

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sunil Saharan, Advocate
for the appellants.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

CRM No.24582 of 2016

Prayer in this application is for condonation of delay of 102 days in filing the appeal.

Heard.

For the reasons stated in the application, the same is allowed and the delay of 102 days in filing the appeal is condoned.

CRA-S No.2773-SB of 2016

Prayer in this appeal is for setting-aside the order dated 31.05.2016 vide which the Additional Sessions Judge, during the proceedings initiated under Section 446 Cr.P.C. in FIR No.321 dated 06.08.2010 under Section 372, 420 and 120-B IPC at Police Station Sadar Hansi, had directed the appellants to deposit the surety amount of Rs.1,00,000/-.

Counsel for the appellants has submitted that the aforesaid FIR No.321 was registered against three accused persons namely Kamaljit Kaur, Kamlesh and Surjit Kaur.

During the pendency of the trial, the appellant No.1 – Santosh stood surety for accused – Kamaljit Kaur and appellant No.2 – Balwant stood surety for the accused – Kamlesh Kaur and one Sant Singh stood surety for the 3rd accused – Surjit Kaur.

Later on, all the three accused absented from the Court proceedings and in pursuance of the proceedings initiated under Section 82 Cr.P.C., they were declared proclaimed offenders.

The trial Court, thereafter, issued notice the appellants under Section 446 Cr.P.C. to explain as to why the amount of surety be not recovered from them.

Thereafter, the trial Court vide impugned order dated 31.05.2016 noticing the fact that the appellants have failed to appear, ordered recovery of the surety amount of Rs.1,00,000/- each and further issued a direction to the Collector, Hisar to effect the recovery.

It is worth noticing here that during the pendency of the present appeal, the appellant No.2 – Balwant Singh has died and therefore, the proceedings against him in pursuance to the impugned order stands abated.

Counsel for appellant No.1 has argued that in terms of the order dated 12.01.2017, the appellant No.1 – Santosh has already deposited a sum of Rs.60,000/- with the trial Court and this fact is duly verified by the Deputy Superintendent of Police (Headquarter) Hansi as per his affidavit dated 15.05.2019.

In the said affidavit, it is also verified that appellant No.2 – Balwant Singh has died on 18.09.2016.

Counsel for the State on the basis of the aforesaid affidavit has not disputed the factual position.

In view of the above, this appeal is partly allowed and the recovery of the surety amount of Rs.1,00,000/- is reduced to Rs.60,000/- which is already deposited by appellant No.1 – Santosh and the proceedings against appellant No.2 – Balwant stands abated.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

01.10.2019
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No