

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

Sr.No.241

CRA-S-3871-SB-2018

Date of Decision:14.01.2019

Gurdas

....appellant

Versus

State of Punjab

.....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Rakesh Gupta, Advocate
for the appellant

Mr.J.P.Ratra, DAG Punjab

ARVIND SINGH SANGWAN, J.(ORAL):

Prayer in this appeal is for setting aside the impugned order dated 01.03.2018 passed by the Sessions Judge, Patiala, whereby the recovery warrants of Rs.75,000/- has been issued against the appellant, who stood surety of an accused namely Mandeep Singh @ Shimpa in FIR No.77 dated 30.04.2017, under Sections 379-B, 411 IPC, registered at Police Station Kotwali, District Patiala.

Learned counsel for the appellant has argued that in fact, after the appellant stood surety to accused Mandeep Singh @ Shimpa, the accused absented from the Court proceedings and his bail/surety bonds were cancelled and the proceedings under Section 446 of the Code of Criminal Procedure (Cr.P.C.) were initiated against the appellant and while issuing the notice, vide impugned order dated 01.03.2018, the Court has straightway issued a notice to the appellant by imposing a penalty of Rs.75,000/-and simultaneously, vide the same order recovery warrants of

Rs.75,000/- were issued to be sent through Collector-cum-SDM, Patiala, for effecting the recovery from the appellant. Learned counsel for the appellant has submitted that in fact the procedure adopted by the Sessions Judge, Patiala, is patently illegal as it is provided under Section 446 Cr.P.C. that after affording an opportunity of hearing to the surety, the penalty should be imposed, whereas no such procedure was followed.

Learned counsel for the appellant has further argued that subsequently the accused Mandeep Singh @ Shimpa appeared before the Sessions judge, Patiala and vide judgement dated 02.05.2018 he was acquitted of the charges and at present no proceeding is pending against him

While issuing notice of motion on 03.10.2018, this Court directed that the appellant will deposit an amount of Rs.15,000/- with the trial Court.

Learned counsel for the appellant submits that the appellant has already deposited an amount of Rs.15,000/- with the trial Court, on 08.01.2019.

Learned State counsel has not disputed the aforesaid facts.

Considering the fact that the impugned order dated 01.03.2018 was passed without affording an opportunity of hearing to the appellant and without following the proper procedure and the recovery warrants of Rs.75,000/- were issued while forfeiting the bail/surety bonds of main accused namely Mandeep Singh @ Shimpa and also considering the fact that the accused Mandeep Singh @ Shimpa stands acquitted by the trial Court vide judgement dated 02.05.2018 and the appellant has already deposited an amount of Rs.15,000/- with the trial Court, I deem it appropriate to set aside the order dated 01.03.2018 and reduce the amount

of penalty from Rs.75,000/- to Rs.15,000/-that already stands deposited by the appellant before the trial Court.

With the aforesaid observations, the present appeal is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

14.01.2019
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Whether speaking/reasoned	Yes/No.
Whether reportable-	Yes/No