

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 1099 of 2001

Panna Lal Shrivastava, S/o. Late Babu Lal Shrivastava, R/o.
Dharampura No. 1, Jagdalpur District Bastar (C.G.)

---- **Appellant**

Versus

State of Chhattisgarh, through District Magistrate, Raipur District
Raipur (CG)

---- **Respondent**

For Appellant : Mr. Keshav Dewangan on behalf of
Mr. Prafull N. Bharat, Advocate
For Respondent : Mr. Sudeep Agrawal, Dy. AG

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

24.06.2020

This appeal has been preferred under Section 449 Cr. P. C assailing the order dated 11.09.2001 passed by Additional Sessions Judge, Raipur, in MJC case No. 175/2001 forfeiting the bond amount of Rs. 10,000/- of the appellant herein who stood surety for his son Ashish Shrivastava in Sessions Trial No. 51/1999.

2. Facts of the case in brief are that the aforesaid Sessions Trial was fixed on 12.06.2001 but on that day accused Ashish Shrivastava had not marked his presence before the Court. Learned trial Court then cancelled the bail granted to the accused and also issued notice to the

surety - the appellant herein, asking him to appear before the said Court on 14.08.2001. It is stated by the appellant that for appearing in the Court on 14.08.2001 he boarded a Raipur bound bus but could not reach the Court on account of collapse of the bridge falling between village Makri and Lakhanpur at National Highway No. 43. Considering the telephonic information given by the appellant herein to this effect, learned trial Court had adjourned the case to 17.08.2001. It is also stated that as the traffic on the said National Highway could not be resumed, he could not appear before the Court on 17.08.2001, 31.08.2001 and 10.09.2001. On 09.09.2001 the appellant is again stated to have sent a telegram to the trial Court informing his inability to appear in the said court and sought an adjournment till 13.09.2001 as by the said date there was every possibility of resumption of traffic. On 10.09.2001 learned trial Court again adjourned the case to 11.09.2001.

3. As on 11.09.2001 again the appellant did not appear before the Court, learned Court below did not grant any further adjournment and passed the order impugned directing for forfeiture of entire amount of bail bond. It is this order which is under challenge in this appeal.
4. Counsel for the accused/appellant submits that on account of collapse of the bridge existing on the Jagdalpur - Raipur Highway the traffic could not be resumed from 13.08.2001 to 12.09.2001 and therefore, for the circumstances beyond his control the appellant could not appear before the trial Court on the dates so given. He thus submits

that the order dated 11.09.2001 directing for forfeiture of the amount of bail bond deserves to be set aside.

5. Counsel for the respondent/State supporting the order impugned submits that in spite of adequate opportunity granted by the trial Court, the appellant remained headless to the same and chose not to appear before it. He thus submits that there is no illegality in the order impugned warranting any interference therewith by this Court.
6. From the order sheets filed along with the appeal it is apparent that the appellant did not make a sincere effort to mark his appearance before the trial Court on number of occasions permitted by it. Learned Court below granted as many adjournments as was prayed on behalf of the appellant till 10.09.2001 and eventually on 11.09.2001 when he did not appear before the Court, the amount of bail bond was directed to be forfeited. This Court does not see any illegality in the order impugned which has been passed after affording several opportunities to the appellant. Had the appellant indeed been sincere in his efforts, he could have availed other means for coming down to the Court where he was to appear. Mere defence of non resumption of traffic taken by the appellant does not appear to be genuine, and being so the Court below was fully justified in passing the order impugned.
7. Accordingly, there is no substance in this appeal and therefore, the same is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE