

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

**CRA-S-1808-2022
DECIDED ON: 24.11.2022**

HARBHAJAN SINGH

.....APPELLANT

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. A.K. Sharma (Bhana), Advocate
for the appellant.

Mr. P.K. Aggarwal, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The instant appeal has been preferred against the impugned order dated 23.02.2022, passed by the learned Sessions Judge, Karnal, whereby the appellant, who stood surety for accused Gurdev Singh, is directed to pay Rs.50,000/- as arrears of land revenue, and the Collector, Karnal is authorised to recover the said amount from the appellant.

The contention of the learned counsel for the appellant is that the appellant was never informed about the summoning by the trial Court and, therefore, the appellant had no knowledge of absence of accused-Gurdev Singh, who was otherwise being represented by his counsel on 07.10.2021. The appellant did not have any occasion to present before the trial Court and without any version of the appellant, the impugned order dated 23.02.2022 was passed, holding the appellant guilty of offence, while ordering the recovery of the amount of Rs.50,000/-. The appellant-

Harbhajan Singh actually stood surety for the main accused Gurdev Singh by submitting bonds to the sum of Rs.50,000/- and the accused had absented on 07.10.2021, while notice under Section 446 Cr.P.C., served upon the appellant, as is evident from the perusal of the order dated 23.02.2022. It was observed and held by the Court below that since the surety has failed to appear despite service of notice under Section 446 Cr.P.C., it is deemed that the appellant has no explanation and amount of Rs.50,000/- was ordered to be recovered as arrears of land revenue.

Heard.

A perusal of the subsequent judgment dated 29.08.2022 (Annexure A-1), makes it abundantly clear that the main accused Gurdev Singh and Lakha Singh were acquitted and, therefore, passing of the impugned order prior in time on 23.02.2022, though sustains but finally in the light of the fact that the main accused Gurdev Singh, for whom appellant had stood surety, stands acquitted. There is, as such, no occasion for recovery of bond amount from the surety by any means.

In the light of the discussion made hereinabove and the reasons recorded in the order dated 23.02.2022, passed by learned Sessions Judge, Karnal, being perverse, is hereby set aside.

Appeal is allowed.

(SANDEEP MOUDGIL)
JUDGE

24.11.2022

Poonam Negi

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No