

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

268

CRM-M-1794-2020

Date of decision: 19.07.2023

Sukhwinder Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Manvinder Sidhu, Advocate
for the petitioner.

Ms. Jasleen Chahal, AAG, Haryana.

Mr. Jagjit Singh, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking quashing of order dated 20.12.2019 (Annexure P-7) passed by learned Sessions Judge, Sirsa whereby bail order dated 09.04.2019 (Annexure P-1) of respondent No.2 which was cancelled vide order dated 15.11.2019 (Annexure P-5) was restored.

2. Learned counsel for the petitioner *inter alia* contends that the learned Sessions Judge, Sirsa while passing the impugned order failed to appreciate that respondent No.2 was granted bail vide order dated 09.04.2019 on account of the fact that the parties had compromised the matter and an undertaking had been given by respondent No.2 to pay ₹4,50,000/- within next six months. However, despite repeated opportunities given by the Trial Court to respondent No.2, he had failed to deposit even ₹50,000/- as directed. Thus, the bail

had been rightly cancelled by the learned Sessions Judge, Sirsa as respondent No.2 had failed to abide by the terms and conditions of the compromise.

3. It has been asserted by learned counsel that it is evident from the conduct of respondent No.2 that he had played a fraud by entering into a compromise by making false promise to pay the amount of ₹4,50,000/- just to secure bail in the case in hand. Learned counsel has, thus, contended that in the circumstances, learned Sessions Judge, Sirsa had erred in restoring the bail of respondent No.2, moreso, when it had been earlier cancelled by him. A prayer has, therefore, been made to set aside the impugned order as the learned Sessions Judge, Sirsa had no power to set aside or review his own order.

4. Per contra, learned counsel appearing for respondent No.2 has controverted the submissions made by the counsel opposite. It has been submitted that it was on account of the precarious financial condition of respondent No.2, he was unable to pay the remaining amount of ₹4,50,000/-. It has been asserted that there was no fraudulent intention on the part of respondent No.2 which would be evident from the fact that to show his bonafides he had deposited ₹50,000/- at the time of grant of bail. It has also been submitted that respondent No.2 is still ready to pay the remaining amount within a reasonable time.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. This Court finds no force in the arguments put forth by the learned counsel for the petitioner that since learned Sessions Judge, Sirsa had cancelled bail of respondent No.2, he had no jurisdiction to

restore the same. A perusal of the order (Annexure P-6) dated 10.12.2019 whereby the bail of respondent No.2 was cancelled, reveals that the said order was passed by learned JMIC, Sirsa and not by learned Sessions Judge, Sirsa. Therefore, the arguments of the learned counsel for the petitioner that the Sessions Judge had no power to recall or review his own order is devoid of any merit. Furthermore, the Courts in a criminal trial are not supposed to act as Executing Courts to enforce a compromise by forcing an accused to pay the amount settled by the parties at the time of compromise. If the accused fails to adhere to the terms and conditions of the compromise, there is nothing which would come in the way of the complainant to pursue the case against him in accordance with law.

7. In the present case, as per the allegations respondent No.2 is accused of offence under Section 420 of the IPC for allegedly duping the petitioner of an amount of ₹13,38,000/- on the pretext of securing a Government job for his grand-son. Offence under Section 420 of the IPC is triable by Magistrate and his punishable with a maximum imprisonment of 07 years. Therefore, in view of the directions of the Hon'ble Supreme Court in *Satender Kumar Antil Vs. Central Bureau of Investigation and another : (2022) 10 Supreme Court Cases 51* coupled with the fact that the investigation in the case in hand is complete, sending the petitioner behind bars and his further incarceration would serve no useful purpose.

8. As a sequel to the above, this Court finds no reason to interfere with the impugned order whereby bail of respondent No.2 was restored. Being devoid of any merit, the instant petition stands

dismissed accordingly.

9. However, it is made clear that respondent No.2 shall appear regularly before the Trial Court failing which the Trial Court shall be at liberty to proceed against him in accordance with law.

19.07.2023

(MANJARI NEHRU KAUL)

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JUDGE

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