

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

(243)

**CRM-M-285-2018 (O&M)
Date of Decision: 16.01.2023**

Pawan Kumar

...Petitioner

Versus

State of Haryana and Anr.

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Hira Lal Rao, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARKESH MANUJA, J.(ORAL)

By way of present petition, invoking Section 482 Cr.P.C., prayer has been made for setting aside an order dated 04.01.2018 (Annexure P-2) passed by learned JMIC, Rewari, vide which petitioner was taken into the custody and sent to jail for not complying with direction given by the trial Court as regards payment of compensation.

As an off-shoot of registration of FIR No.62 dated 05.02.2014, under Sections 279/337/338 IPC, Police Station, Dharuhera, against the petitioner, he having faced trial, was ordered to be released on probation under the provisions of Section 4 of Probation of Offenders Act, 1958, and in addition, was directed to pay a sum of Rs. 5,000/- to the injured complainant as compensation. Operative part of the decision dated 01.12.2017 passed by the Court of Sessions Judge, Rewari, is reproduced as under:

“As a sequel to above discussion, the present appeal has been partly allowed and the judgment of conviction against the appellant is affirmed but the order of sentence of imprisonment passed by learned Trial Court is modified and instead of sending him to jail, it is ordered that let the appellant be released on

probation of good conduct under the provisions of Section 4 of Probation of Offenders Act, subject to the condition that he shall keep peace and be of good behavior for a period of one year and shall submit the necessary bonds with one surety before the trial court accordingly. In addition to this, he shall also pay a additional compensation of Rs.5,000/- which shall be payable to the injured Gurmeet Singh for the prosecution of this criminal case, after expiry of period of limitation to file revision etc. However, fine already imposed and paid by the appellant-accused shall be treated as cost of proceedings. Needless to say if the appellant shall not deposit the amount of compensation in the trial court within 30 days from today, the appeal shall stand dismissed in toto and trial court shall arrest the appeal and commit him to jail to undergo the sentence awarded by it. Let a copy of this order along with lower Court record be returned back for further necessary action and appeal file be consigned to the record-room after due compliance.”

A perusal of the aforesaid order shows that the amount of compensation was required to be deposited within a period of 30 days from the date of passing of the same, however, on account of his poor financial condition, petitioner could not comply with the said direction and resultantly he was taken into custody on 04.01.2018, compelling him to approach this Court by way of present petition. On 11.01.2018, this Court passed the following order:

“Ld. Counsel for the petitioner files a copy of the original receipt showing deposit of Rs.5,000/- in compliance of the direction of the Ld. Appellate Court in its judgment passed on 01.12.2017; be kept on record.

On oral prayer of Ld. Counsel for the petitioner, let the injured Gurmit Singh be impleaded as respondent No.2.

Let dasti notice qua respondent No.2 be issued for 05.03.2018.

In the meantime, the petitioner be conditionally released from custody in view of payment of compensation amount made by him. Ld. Counsel for the petitioner is directed to file amended memo of parties on or before the next date.

A copy of this order be handed over to Ld. Counsel for the petitioner under the signature of Special Secretary of this Bench.

A perusal of the aforesaid order shows that the petitioner deposited the amount of additional compensation of Rs.5000/- as ordered by the Court of learned Sessions Judge, Rewari and was even directed to be released from custody.

I have heard learned counsel for the parties and have gone through the paper book.

Once the direction issued vide judgment dated 01.12.2017, passed by the Court of learned Sessions Judge, Rewari, stands complied with, considering the explanation rendered by the petitioner for his delay in deposit of the amount which in the facts and circumstances of the case appears to be *bona fide*, the present petition is allowed. The interim order dated 11.01.2018 is hereby made absolute.

The petition stands disposed of.

(HARKESH MANUJA)
JUDGE

16.01.2023
anil

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