

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRA-S No.3739 of 2023 (O&M)
Date of decision: 15.12.2023

Chhinderpal Kaur alias Chhinder Kaur

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Surinder Garg, Advocate,
for the appellant.

MANISHA BATRA, J.

1. The appellant is challenging the order dated 17.10.2023 passed by learned Sessions Judge, Faridkot in case bearing SC-11 of 2023 titled as *State v. Gursewak Singh @ Golu* whereby, the penalty of an amount of Rs.1 lac was imposed upon the appellant and recovery warrants were ordered to be issued against her.

2. The facts relevant for the purpose of disposal of this appeal are that the present appellant stood as surety to the accused Gursewak Singh @ Golu and had furnished surety bonds to the tune of Rs.1 lac. The abovesaid Gursewak Singh has been absenting himself and the learned trial Court by observing that there are reasons to believe that he is absconding and there is no possibility of securing his presence, has initiated proceedings under Section 82 of Code of Criminal Procedure and has passed an order for issuance of proclamation against him. Notice

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under Section 446 of Cr.P.C. had also been issued against the present appellant as a surety. A perusal of record reveals that even after receiving the said notice, she did not appear before the concerned Court to explain as to why the surety amount be not imposed upon her as penalty because of default of the accused Gursewak for appearing before the Court. The learned trial Court has, therefore, imposed penalty to the tune of the abovementioned amount upon her and recovery warrants have been ordered to be issued.

3. Learned counsel for the appellant has argued that the appellant is a very poor person. She does not own any property and had been allotted only an area of 13.2 sq. meters of property for her residence in Chief Minister's Slum Development Program called as BASERA. She stood surety for the accused Gursewak being his relative and was not aware about the consequences thereof. Therefore, it is prayed that the impugned order be set aside and amount of penalty be reduced.

4. I have heard learned counsel for the appellant at considerable length. Section 446 of Cr.P.C. provides the procedure when the personal and surety bonds are forfeited. As per this section, on forfeiture of such bonds, the Court may call upon the person bound by such bonds to pay the penalty thereof or to show cause why it should not be paid. As per sub Section (2) of Section 446, the Court is competent to proceed to recover the penalty imposed in a manner, if such penalty were a fine imposed under the Code. In case of non payment of penalty amount and non recovery thereof, even civil imprisonment for a term extending to six

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months can be ordered. The appellant in this case admittedly furnished surety bonds to the tune of Rs.1 lac in favour of accused Gursewak Singh. On account of absence of the abovesaid accused, these bonds have been forfeited. She was given out opportunity by the learned trial Court to appear before it and to show cause why the proposed amount of penalty should not be paid by her. However, the appellant did not bother to appear despite receipt of the notice and as a consequence thereof, recovery warrants have been issued against her. The plea taken by the appellant that she is a poor person and does not own any property cannot be accepted as while furnishing surety bonds before the concerned Court, she must have placed on record some document to show that she was a solvent person. The plea of her ignorance qua the consequences of her furnishing bonds, is of no avail as ignorance of law cannot be an excuse. The appellant while fully knowing that she was standing as a surety to the accused Gursewak Singh, had furnished bonds for a sum of Rs.1 lac in his favour. She cannot say that she was not in a position to pay the amount of penalty which is of the same amount. As such, finding no reason to interfere with the impugned order, it is held that the appeal does not deserve to be allowed and accordingly, the same is dismissed.

5. Miscellaneous application(s), if any, also stand disposed of.

(MANISHA BATRA)
JUDGE

15.12.2023

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No