
(2003) 02 P&H CK 0117
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 41-SB of 1990

Kuldip Rai and Ram Murti

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 05-02-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 446
Penal Code, 1860 (IPC) — Section 366, 376

Citation : (2003) 02 P&H CK 0117

Hon'ble Judges : Nirmal Singh, J

Bench : Single Bench

Advocate : Sunil Chadha, for the Appellant; B.S. Chahal, AAG, for the Respondent

Final Decision : Allowed

Judgement

Nirmal Singh, J.—The appellants stood surety accused Sarwan Kumar accused and executed surety bonds that in case Sarwan Kumar accused will not appear in the Court then they will pay Rs. 10000/- each to the State. The accused absented himself on 22.5.1989. The bail bonds and surety bonds were cancelled. Notices u/s 446 Cr.P.c. were served upon the appellants and after hearing the appellants, a penalty of Rs. 4,000/- each was imposed upon the appellants.

2. After hearing the learned counsel for the appellants and perusing the record, I am of the considered opinion that the learned trial court has erroneously imposed penalty of Rs. 4,000/-.

3. Admittedly, the accused has remained absent only on one date. On the next date i.e. 13.7.1989 the accused was produced in the court by the appellants. The accused moved an application for re-admitting him on bail. The learned trial court after considering the explanation of the accused re-admitted him on bail but the learned trial court has not taken into consideration this fact while imposing penalty upon the appellants. If the trial court has considered the explanation of the accused as satisfactory then in case of surety the explanation

should also be considered as satisfactory. Similar view has been taken in Dhari v. State of Haryana 1987 (1) RCR 121.

4. For the reasons mentioned above, the appeal is accepted and the penalty imposed upon the appellants is set aside.