
(2013) 08 P&H CK 0683

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 578-SB of 2003 (O and M)

Mithan Lal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 446

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 15

Citation : (2013) 08 P&H CK 0683

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Deepak Mishra, DAG, for the Respondent

Final Decision : Disposed Off

Judgement

Ritu Bahri, J.—Challenge is to the order dated 18.01.2003 passed by the Additional District Judge, Yamuna Nagar at Jagadhri whereby in proceedings initiated u/s 446 Cr.P.C. the appellant-Mithan Lal was sentenced to undergo civil imprisonment for six months for not depositing Rs. 10,000/- as per order dated 5.10.2000 passed by the Additional Sessions Judge, Jagadhri. The appellant had stood surety for one Chattar Pal son of Antu Ram in a case u/s 15 of the NDPS Act. The accused misused the concession of bail and the surety was forfeited to the State. Proceedings u/s 446 Cr.P.C. were initiated and he did not contest the notice. Vide order dated 5.10.2000 passed by the Additional Sessions Judge, Jagadhri a penalty of Rs. 10,000/- was imposed upon him. The fine could not be recovered as the surety lived in a small room and did not own any moveable or immovable property.

2. The Supreme Court in Mohammed Kunju and Another Vs. State of Karnataka, had examined a case where the accused had jumped bail and Rs. 25,000/- penalty was imposed upon surety. While extending the benefit of remission, the penalty was reduced to Rs. 5,000/-. A finding was recorded that the surety did not have any knowledge that the accused will jump the bail and abscond.

3. In the present case, a finding has been recorded while sentencing him to civil imprisonment for six months that the surety did not own any moveable or immovable property and he lived in a small room which belonged to his brother. He had misrepresented himself to be the owner of the house valuing Rs. 1.5 lacs.

4. This appeal has been pending since 2003 and almost 10 years for gone by and it is not the case of the prosecution that he had the knowledge that the accused, for which he stood surety, had been helped by him to abscond and that he had any knowledge that he will jump the bail.

5. Keeping in view the financial condition of the appellant, the order dated 18.01.2003 passed by the Additional District Judge, Yamuna Nagar at Jagadhri is upheld. However, the civil imprisonment of six months is reduced to 10 days. The petition is disposed of.