

(2007) 02 P&H CK 0148

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 68777-M of 2005

Ajaib Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

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Date of Decision: Feb. 1, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 446

Citation: (2007) 3 RCR(Criminal) 445

Hon'ble Judges: Surya Kant, J

Bench: Single Bench

Advocate: G.S. Kaura, for the Appellant; R.D Sharma, DAG, Haryana, for the Respondent

Final Decision: Allowed

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### Judgement

Surya Kant, J.

This petition is directed against the order dated 29.8.2003 passed by the learned Judge, Special Court, Kaithal whereby a penalty of Rs. 50,000/- has been imposed upon the Petitioner.

2. The Petitioner stood surety and furnished the surety bonds for an undertrial, namely, Randhir Singh, who was accused of an offence under the N.D.P.S. Act. Randhir Singh the accused absconded from the trial and was declared a proclaimed offender. The Petitioner was also served with a notice u/s 446 Code of Criminal Procedure but he having failed to respond to the same, the learned Judge, Special Court, Kaithal imposed the impugned penalty upon the Petitioner.

3. It appears that subsequently the accused (Randhir Singh) surrendered before the Court and was later on acquitted on merits vide judgment 23.10.2003.

4. In view of the fact that the accused had absconded from the trial and was declared a proclaimed offender, per se, there is no infirmity in the impugned order dated 29.8.2003 imposing penalty of Rs. 50,000/- upon the Petitioner.

5. However, having regard to the mitigating circumstances, namely, that the accused subsequently surrendered on his own and has been acquitted on merits, I am of the view that the Petitioner has made out a case of reduction in the amount of penalty.

6. Consequently, this petition is partly allowed. The impugned order dated 29.8.2003 passed by the learned Judge, Special Court, Kaithal, is modified to the extent that a penalty of Rs. 25,000/- (instead of Rs. 50,000/-) is imposed upon the Petitioner. The Petitioner is directed to deposit the aforesaid amount within a period of two months, failing which he shall be liable to pay the original penalty of Rs. 50,000/- imposed upon him by the learned Special Judge, Kaithal.