

Surendra Singh Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Feb-26-1981

Reported in : 1981WLN(UC)40

Judge : N.M. Kasliwal, J.

Appeal No. : S.B. Criminal Misc. Petition No. 55 of 1980

Appellant : Surendra Singh

Respondent : The State of Rajasthan

Disposition : Application allowed

Judgement :

N.M. Kasliwal, J.

1. Heard learned counsel for the petitioner and the learned Public Prosecutor. The petitioner was released on bail by the learned Sessions Judge, vide his order dated 31-10-80. He was to appear on 7th February, 1981 in the Court of Munsiff and Judicial Magistrate, Court No. 15, Jaipur City.

2 The petitioner's contention is that he could not appear on 7th February, 1981 on account of his illness. The learned Magistrate, confiscated the bail bonds and issued a non-bailable warrant against the petitioner. The petitioner thereafter moved an application on 23rd February, 1981 for cancellation of the warrant of

arrest and prayed that fresh bail may be granted to him. The learned Magistrate by his order dated 23-2-81 dismissed the aforesaid application taking the view that when the bail bonds had been forfeited he had no jurisdiction to cancel the warrant of arrest.

3. This petition under Section 482 Cr. P.C. had been filed against the aforesaid order of the learned Magistrate, dated 23-2-81 and 7-2-81. The petitioner had filed an application for cancellation of the warrant of arrest on the ground that he was ill on 7-2-81 and was not in a position to attend the court. Medical Certificate in support of the illness was also filed along-with the application. The learned Magistrate, did not consider the matter of illness on merits and dismissed the application merely on the ground that he had no jurisdiction to cancel the warrant of arrest when he had already passed an order forfeiting the bail bonds.

4. In my view the Magistrate took an erroneous view of law in holding that he had no jurisdiction to cancel the warrant of arrest issued by him. Under Sub-Section (2) of Section 70 of Criminal Procedure Code, there is a provision that every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed. Apart from that, under Section 447 the Magistrate is empowered to demand a fresh security in accordance with the directions of the original order. In this view of the matter the order passed by the learned Magistrate dated 23-2-81 is set aside and it is directed that on furnishing a personal bond in the sum of Rs. 10,000/- with 2 sureties of Rs. 5,000/- each by the petitioner to the satisfaction of the learned Judicial Magistrate, 1st Class, No. 15, Jaipur city, the warrant of arrest issued against the petitioner shall be cancelled.