

Mangla Vs. the State

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Court : Rajasthan

Decided On : May-05-1979

Reported in : 1979WLN274

Judge : C.M. Lodha, C.J.

Appeal No. : S.B. Cr. R. Petition No. 402/76

Appellant : Mangla

Respondent : The State

Disposition : Petition allowed

Judgement :

C.M. Lodha, C.J.

1. These are two connected revision-petitions arising out of the same order dated September 16, 1976, passed by the Sessions Judge, Banswara. The short point involved in these revision petitions is whether the personal bond and the surety bond in question are legally enforceable.

2. It appears that on March 4, 1976, 14 bags of sugar recovered from the house of one Kundan Lal were entrusted to Mangla Superd dar as Mangla claimed that the sugar belonged to him and had been given to him for sale as he was a licence holder for sale of controlled sugar. Since it was found that Mangla's licence had

expired on February 12, 1976, the learned Magistrate called upon him to produce 14 bags of sugar and on having failed to do so, forfeited the personal bond for Rs. 8000/-furnished by him. The learned Magistrate also ordered forfeiture of the surety bond furnished by Anant Lal in the sum of Rs 5000/, for production of 14 bags of sugar by Mangla. On failure of Manila to produce the sugar, the learned Magistrate directed forfeiture of personal bond as well as surety bond. Mangla as well as his surety Anant Lal filed appeals in the court of the Sessions Judge, Banswara, and the same having been dismissed, they have filed these two revision-petitions.

3. I have looked into the original personal bond as well as the surety bond & find that they have not been executed in favour of any court. The Station House Officer, Banswara, had verified them. In fact the bonds are in favour of no body. Consequently, the bonds cannot be said to be valid and enforceable. Even the learned Public Prosecutor is not able to support the impugned orders.

4. In Anwar Ahmed v. State of Uttar Pradesh AIR 1976 SZC 680 where the police had seized a car alleged to have been stolen during investigation and entrusted it to the complainant on Superdnama on his executing a personal bond in favour of the police, whereby he undertook to produce the car in court whenever necessary and in case of failure, he bound himself to pay a penalty, it was held that the bond was not valid and enforceable under Section 514 of the Code of Criminal Procedure. In this view of the matter, the order of the court forfeiting the bond was quashed Under Section 523, Cr.P.C. it is for the Magistrate to pass such orders as he thinks fit regarding the disposal of the property seized by the police officer during the course of investigation. However, that section does not authorise a police officer to take a bond from the person to whom the property is entrusted. The execution of the bond involves a civil liability and, therefore, as held by their Lordships of the Supreme Court in Rameshwar Bhattia v. The State of Assam : 1953 CriLJ163 , it is in the fitness of things that the bond should be executed before a court. Thus, there is no express provision in the Code of Criminal Procedure which empowers the police to get a personal bond from the person to whom the property seized is entrusted.

5. The result is that I allow these two revision-petitioners, set aside the orders of the learned Sessions Judge, Banswara as well as the learned Judicial Magistrate, Banswara, and quash the proceedings regarding forfeiture of the bonds in question.

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