

Mohan Singh Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/773162

Court : Rajasthan

Decided On : Oct-22-2002

Reported in : 2003(1)WLN107

Judge : Khem Chand Sharma, J.

Appeal No. : S.B. Criminal Appeal No. 956 of 2002

Appellant : Mohan Singh

Respondent : State of Rajasthan

Disposition : Appeal allowed

Judgement :

Khem Chand Sharma, J.

1. At the joint request, I have heard learned Counsel for the parties for final disposal of this appeal at the admission stage.

2. In this case, the bail granted to accused Ram Lakchan on 8.2.2000 was cancelled by the learned Sessions Judge Dholpur vide order dated 29.9.2000 on an application moved under Section 439(2) Cr.P.C. The revision petition preferred against the order cancelling the bail was moved, but the same was dismissed by this Court on 7.5.2002.

3. It may also be noted that vide order dated 13.6.2001, the trial court initiated proceedings under Section 446 Cr.P.C. against the appellant surety of accused Ram Lakchan and vide order dated 17.7.2001, the learned trial court forfeited the amount of surety bond.

4. This appeal under Section 449 Cr.P.C. has been preferred by the appellant, who stood surety of accused Ram Lakchan seeking to challenge the order dated 3.6.2002 passed by the learned trial court whereby the application of the appellant filed under Section 446(3) Cr.P.C. was dismissed.

5. It appears that the bail bonds were cancelled on 29.9.2002 and after cancellation of the bail bonds neither there was any occasion nor it was legally permissible to initiate proceedings under Section 446 Cr.P.C. against the appellant surety. In this view of the matter, the impugned order rejecting the application of the appellant filed under Section 446(3) Cr.P.C. cannot be sustained and the appellant surety is entitled to get refund of the amount of Rs. 25,000/- deposited by him with the trial court.

6. In the result, this appeal is allowed. The impugned order dated 3.6.2002 is quashed and the trial court is directed to refund the amount of Rs. 25,000/- to the appellant surety deposited by him.