2026:HHC:14335

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 561 of 2024
Reserved on: 17.03.2026
Date of Decision: 04.05.2026.

Ravi Kumar ...Appellant

Versus

State of H.P. ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *No*

For the Appellant : Mr J.P. Sharma, Advocate.

For the respondent/State : Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The appellant stood surety for accused Ravi Kumar, S/o Parveen Kumar undertaking to produce him in the Court of learned Special Judge, Chamba or any other Court to answer the charge of the commission of an offence punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act (in short 'NDPS Act') and in case of failure to pay an amount of ₹1,00,000/- to the State of H.P. The accused failed to appear before the Court

1 Whether reporters of Local Papers may be allowed to see the judgment? Yes.

and the Court issued bailable warrants to secure his presence. However, he failed to appear before the learned Trial Court; hence, the Court cancelled and forfeited the bail bonds of the accused to the State of Himachal Pradesh and initiated proceedings under Section 446 of Cr. P.C. A notice was served upon the present appellant, but he failed to appear before the Court, and his presence was also secured by way of bailable warrants. He filed a reply asserting that he was not aware that the accused had not appeared before the Court on 07.09.2024 or before that, and he sought an opportunity of one month to produce the accused Ravi Kumar before the Court. The Court held vide order dated 17.09.2024 that since the appellant/respondent had failed to produce the accused, he was liable to pay a sum of ₹1,00,000/- to the State of H.P. Consequently, warrants of recovery were issued to the District Collector for realising the amount. Aggrieved by the order, the appellant has filed the present appeal.

2. The matter came up for hearing before this Court, and the court ordered on 19th June, 2024, that the question whether a notice is required to be issued to the surety before forfeiture of the bonds had already been referred to a larger Bench in ***Madan Verma***

Vs. State of H.P., Criminal Appeal No.344 of 2023 and the answer was awaited. Therefore, a direction was issued to list the matter after the receipt of the answer to the reference. Learned counsel for the appellant requested on 17th March, 2026, to hear the matter finally; therefore, the matter was heard finally without awaiting the outcome.

3. Mr J.P. Sharma, learned counsel for the appellant, submitted that the learned Trial Court erred in issuing a warrant under section 421 of the CrPC to the District Collector to realise the amount by sale of the immovable property. The appellant was not served as per the law, and the order dated 17th September, 2024, is bad in the eyes of the law. The appellant is the sole earner of the family, and in case of the sale of the property, the appellant and his family members would suffer irreparable harm. No adequate opportunity of hearing was provided to the appellant before imposing the penalty. Learned Trial Court failed to notice the judgment of this Court in ***Sunita Vs. State of H.P. passed in Criminal Appeal No.189 of 2023***, wherein, this Court had set aside a similar order after relying upon the earlier judgment of this Court in ***Narata Verma Vs. State of H.P, 1993(2) Shimla Law Cases***

193. Hence, he prayed that the present appeal be allowed and the order passed by the learned Trial Court be set aside.

4. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the appellant was properly served. He was provided an opportunity to produce the accused, but he failed to do so. The accused was declared a proclaimed offender. The appellant had undertaken to produce the accused or to pay an amount of ₹1,00,000/- to the State; therefore, the learned Trial Court was justified in passing an order for the recovery of ₹1,00,000/- as per the undertaking of the appellant. There is no infirmity in the order passed by the learned Trial Court; hence, he prayed that the present appeal be dismissed.

5. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

6. The record of the learned Trial Court shows that the accused was absent on 9th July, 2024; hence, his personal and surety bonds were forfeited to the State of H.P. Proceedings under Section 446 of CrPC were ordered to be initiated against the accused and his surety. The endorsement made by the office shows that the notice was duly served upon the appellant. The

copy of notice dated 9th July, 2024, returnable for 20th July, 2024, bears an endorsement that the notice was served upon Ravi Kumar, the present appellant, and he was personally informed of the date of hearing. He failed to appear before the Court on 20th July, 2024; consequently, the Court issued the bailable warrants to secure his presence. He appeared before the Court on 7th September, 2024 and showed his ignorance regarding the whereabouts of the accused, who was already declared a proclaimed offender. The appellant was called upon to file the reply and he submitted a reply stating that he came to know on 7th September, 2024 that the accused had not appeared before the Court on any date of hearing till 7th September, 2024 after filing of the charge-sheet by the Police, the appellant sought an opportunity of at least one month to contact and produce the accused before the Court because he had come to know that the accused had left his abode after selling his house and had settled somewhere else or he was in Police/judicial custody in some jail.

7. The learned Trial held that a surety bond is like a contract between the Court and the surety to the extent that, in case of failure of the accused to appear in the Court, the surety would produce the accused. In the event of failure, he would pay

the bond amount to the State. In the present case, the accused absconded and was declared a proclaimed offender. Therefore, the appellant was liable to pay an amount of ₹1,00,000/- to the State of H.P. as per the terms of the bond furnished by him. The appellant had failed to pay the amount; hence, a warrant was ordered to be issued to the District Collector to realise the amount, as arrears of land revenue.

8. It was submitted that a show cause notice was not issued before the forfeiture of the bond, and the proceedings are bad. It is necessary to refer to Section 446 of Cr.P.C. to appreciate this submission. The section reads as follows:

> **446. Procedure when the bond has been forfeited.**—(1) Where a bond under this Code is for appearance, or production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited, or where, in respect of any other bond under this Code, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

9. This section provides that when the bond has been forfeited, and this fact has been proved to the satisfaction of the

Court, the Court shall record the grounds of such proof and may call upon the person bound by such bond to pay the penalty thereof or to show cause as to why it should not be paid. It is also apparent from Form-48 provided in schedule II of the Cr.P.C. that the surety is informed of the fact that the accused had failed to appear before the Court, and because of such default, the surety had forfeited the sum of rupees undertaken to be paid by him. Thereafter, it asks the surety to pay the penalty or show cause as to why the payment of the amount should not be enforced against the surety. It was held in ***Fatehchand Wadhumal v. Emperor, AIR 1940 Sind 136,*** that when the Magistrate issued a notice to the surety to show cause why the bond should not be forfeited, the procedure was irregular. The Court is bound to forfeit the bond when the accused does not appear, and there is no provision for issuing notice to the surety to show cause why the bond should not be forfeited. It was observed as under: -

> "**3.** The Magistrate shall issue a warrant directing the arrest of the accused, and only on the appearance of the accused before him does the Magistrate then discharge the surety; but in this case, the Magistrate appears to have discharged the surety before the accused appeared or was brought before him. *He appears to have issued notice to the surety to show cause why the bond should not be forfeited and also issued notice to the accused, and on the same day, though*

> *the accused was absent, to have discharged the surety under Section 502 of the Cr PC. All this is quite irregular. Section 514 of the Cr PC requires the Court to record the grounds of the proof that the bond has been forfeited, and a bond for appearance is forfeited when the accused does not appear, but it does not require the Court to issue notice to show cause why the bond should not be forfeited*. The Court may issue notice to show cause why the penalty resulting from the forfeiture should not be imposed, and I have again and again advised Magistrates to refer to the relevant Sections of the Code of Criminal Procedure, to read them and to follow them when mistakes such as these would not occur...." (Emphasis supplied)

10. Hon'ble Supreme Court also held in ***Ghulam Mehdi v. State of Rajasthan, AIR 1960 SC 1185,*** that notice has to be given to the surety before recovering the money from him to show cause as to why the amount should not be recovered from him. It was observed: -

> "**4.** It is not necessary to go into the first point in our opinion unless notice is given to the surety under Section 514(1) to show cause why the surety bond be not paid. No proceedings for recovery under Section 514 can be taken. Section 514(1) & (2) is as follows:
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> > "Section 514. (1) Whenever it is proved to the satisfaction of the court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,
> >
> > or, when the bond is for appearance before a court, to the satisfaction of such court,
> >
> > that such a bond has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by such a bond to pay the penalty thereof or to show cause why it should not be paid.

> Section 514(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead."

> **5.** This provision shows that before a surety becomes liable to pay the amount of the bond forfeited, it is necessary to give notice why the amount should not be paid, and if he fails to show sufficient cause, only then can the Court proceed to recover the money. In the present case, the appellant was not called upon to show cause why the penalty should not be paid. Before a man can be penalised, forms of law have to be observed, and an opportunity has to be given to a surety to show cause why he should not be made to pay and as in this case that was not done, proceedings cannot be said to be in accordance with law and should therefore be quashed."

11. The Division Bench of Orissa High Court held in ***Jagannath Rout v. State of Orissa 1975 Cri LJ 1684*** that the Court has to satisfy itself that a bond had been forfeited, which means that the condition laid down in the bonds has been contravened, and thereafter the Court has to issue a show cause as to why the amount be not released from him. There is no provision for issuing a show-cause notice before forfeiting the bond. It was observed: -

> "**4.** These two sub-sections thus contemplate two different stages in the proceedings before the Magistrate. In the first stage, the Court has to satisfy itself that a bond has been forfeited, which means that the condition imposed upon the executant of the bond and agreed to by him had been contravened. If the bond is for the

appearance of the accused in Court, as it is in this case, the fact that the accused had absented himself is sufficient to constitute a breach of the condition and therefore for the forfeiture of the bond. If, on the other hand, the bond is for keeping peace or being of good behaviour, the person who alleges that the person bound under the bond has infringed the condition laid upon him must furnish proof to the satisfaction of the Court that there has been such infringement. It is only on such proof that the bond can be forfeited. There is thus a clear distinction between a bond for appearance on one side and a bond for keeping the peace or for being of good behaviour on the other. Doubtless, in both cases, it has to be proved to the satisfaction of the Court that there has been a forfeiture of the condition of the bond, and the Court has also to record the grounds of such proof. But so far as a bond for appearance is concerned, the very fact that the accused has failed to appear in Court on the date fixed is sufficient proof of the fact that the condition of the bond has been forfeited, and no further proof is necessary. This is exactly what has happened in this case. It is not disputed that on the date fixed, namely, 22-3-1973, the accused Mahadeb Behera, for whom the petitioner stood surety, failed to appear in Court. Consequently, there occurred a breach of the condition of the bond executed by the petitioner, undertaking to cause the production of the accused on all dates of hearing. Doubtless, as I find from the record of the Magistrate, he has not expressly recorded his satisfaction that the bond has been forfeited; that is only an irregularity which does not go to the root of the matter. The very fact that he proceeded to the second stage in directing the issue of a notice to the petitioner to show cause why the bond amount shall not be realised from him shows beyond doubt that the Magistrate was satisfied that the bond had been forfeited. There is nothing in sub-section (1) of Section 514 which requires the Court at that stage to give notice to the executant of the bond to show cause against forfeiture before the Magistrate reaches the satisfaction that the bond has been forfeited.

5. The second stage relates to the realisation of the forfeited bond amount. At this stage, two alternatives are open to the executant of the bond. He may pay the amount mentioned in the bond, and if this is done, no further proceeding is necessary. He may, in the alternative, show cause why the amount mentioned in the bond should not be paid by him. If he shows such cause, it has to be duly considered by the Magistrate, and necessary orders passed. There is no dispute that a show cause notice was issued to the petitioner and that he appeared in Court and showed cause. That was duly considered by the Magistrate, and it is thereafter that he passed the impugned order. No exception, therefore, can be taken against the order passed by the learned Magistrate.

6. Considerable reliance is placed by the learned Counsel for the petitioner on a decision of the Supreme Court in ***Ghulam Mehdi v. State of Rajasthan, AIR 1960 SC 1185 : (1960 Cri LJ 1527)***. The question that arose for consideration in that case was whether a notice had to be given to the sureties to show cause why the penalty should not be paid. After referring to sub-sections (1) and (2) of Section. 514, Criminal P.C., their Lordships stated at page 1186 thus:

> "This provision shows that before a surety becomes liable to pay the amount of the bond forfeited, it is necessary to give notice why the amount should not be paid, and if he fails to show sufficient cause, only then can the Court proceed to recover the money. In the present case, the appellant was not called upon to show cause why the penalty should not be paid. Before a man can be penalised, forms o£ law have to be observed, and an opportunity has to be given to a surety to show cause why he should not be made to pay and as in this case that was not done, proceedings cannot be said to be in accordance with law and should therefore be quashed."

7. In the passage quoted above, their Lordships were clearly referring to the second stage of the proceeding, and

as I have already pointed out, such a notice has been issued in this case. *Nowhere have their Lordships stated that at the first stage, that is, before forfeiting the bond executed for the appearance of the accused, and in a case where admittedly the accused has not appeared, the Court is bound to give a notice to the surety to show cause why the bond should not be forfeited. The bond executed was one for causing the appearance of the accused, and as admittedly there was no appearance of the accused, there was automatic contravention of the condition imposed upon the executant of the bond involving forfeiture thereof. It is not understood what further cause the surety could show at that stage. It was argued that if a notice is issued to the surety before the bond was forfeited, he could come and urged that the non-appearance of the accused was due to circumstances beyond his control. That is a plea which the surety can urge at the second stage when he is called upon to show cause why he should not pay the penalty. The petitioner was given such an opportunity in this case.*

8. The petitioner next relied upon a decision of the Patna High Court in ***Zulmi Kahar v. Emperor, AIR 1929 Pat 643*** where Fazl All, J. (as he then was) referring to Section 514(1) Criminal P.C. stated that the proper course for a Magistrate proceeding to pass an order under Section 514(1) is to come to a finding based on some evidence that the bail bond executed by the surety has been duly forfeited and then only to issue a notice to show cause why the penalty should not be realised from him. Very shortly thereafter, when a similar case came up before Macpherson, J., another learned Judge of the Patna High Court in ***Rajbansi Bhagat v. Emperor, AIR 1929 Pat 658***, His Lordship observed: —

> "There is a palpable distinction between bonds which are not and those which are for appearance before a Court. Proof other than that directly before the Court in its own record is required in the former and not in the latter. Where the Court had before it the order for bail, the bail bond and the fact that the petitioners did not produce the accused, the

provisions of Section 514(1) were substantially complied with and the High Court would not be justified in interfering in revision where there was no possible prejudice on the ground that the proceedings of the Sessions Judge under Section 514 were without jurisdiction as he had before him neither any proof that the bail-bond had beep forfeited nor did he record the grounds of such proof before he called upon the petitioners to show cause why the penalty of the bond should not be paia."

9. He distinguished the earlier decision of Fazl Ali, J. **in** ***AIR 1929 Pat 643*** on the ground mat when in that case the accused failed to appear, his mother filed a petition stating that her son was unable to attend as he was suffering from fever and the Magistrate took action forthwith without any inquiry into the allegation and when owing, it was alleged, to illness the surety failed to appear to show cause why the bond should not be forfeited, at once made an order of forfeiture. In a subsequent Bench decision of that Court in ***Tarni Yadav v. State, AIR 1962 Pat 431 : ((1962) 2 Cri LJ 627)***, the learned Judges dissented from the view earlier expressed by Fad Ali, J. in ***AIR 1929 Pat. 643*** and accepted the view expressed by Macpherson, J. in ***AIR 1929 Pat 658***. That Bench held that where a bond has been executed by a surety undertaking to cause the appearance of the accused in Court and on the date fixed, the accused does not appear in Court, there is a contravention of the condition of the bond entailing forfeiture thereof, and no further inquiry is either necessary or contemplated at that stage. The *Magistrate can straightway issue a notice to the surety to show cause why the penalty mentioned in the bond should not be recovered from him, and it is at that stage that the surety is entitled to put forth such a plea as would be available to him.* With great respect, the view taken by the Division Bench in ***AIR 1962 Pat 431: ((1962) 2 Cri LJ 627)*** appears to me to be the correct view. This view has also been accepted by my learned brother R.N. Misra, J. in ***Harish Chandra***

Pradhan v. State, (1974) 1 Cut W.R. 356." (Emphasis supplied)

12. It was held by this Court in ***Dhanvir vs. State 1975 Cr.L.J. 1347*** that a show cause notice cannot be issued before forfeiture of the bond. It was observed:

> "A perusal of Section 514 will make it abundantly clear that the Court has to be satisfied in the first instance that a bond for appearance was taken and that the said bond has been forfeited, for which it shall record the grounds. The order as to forfeiture of the bond, which is upon grounds to be recorded to the satisfaction of the Court, is almost automatic, no sooner than the condition of the bond is disregarded and the person fails to appear before the Court. It is only after such an order of forfeiture is made by the Court that a notice to show cause is to be issued to the surety either to pay the penalty or to show a sufficient cause why the penalty be not paid. Thereafter, the Court has to consider the grounds made out by the surety in support of his case, and after considering the case on merit, if the Court is dissatisfied with the reasons shown, an order is to be made for the realisation of the penalty. In the instant case, this procedure has not been followed by the learned Magistrate. It is an irregularity to pass a single order forfeiting a surety bond and directing its amount to be realised as a penalty. Under Section 514, as I have stated before, two steps are essential:
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> (i) an order has to be passed forfeiting the bond
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> (ii) notice has to be served on the surety to show cause why the amount be not realised from him by way of penalty.
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> It has been held in ***Bishnu Dalai v. The State, AIR 1960 Orissa 108 : (1960 Cri LJ 842)*** that if the provisions of Section 514 are not followed, it would amount to an illegality and not merely an irregularity. *In the present case, the Magistrate*

> *issued a notice to show cause as to why the bonds be not forfeited. Such a notice is not even contemplated in Section 514. On 22-10-1971, when these persons failed to appear, the Magistrate had to see as to whether the bond was for the appearance before the Court and as to whether, to the satisfaction of such Court, the bond was forfeited as its condition was not satisfied. He should have made an order to that effect in the first instance. Only thereafter, he could have issued a notice to these persons calling upon them either to pay the penalty or to show cause why the same should not be paid.* Instead, the Magistrate proceeded to forfeit the bond as well as he ordered for the realisation of the penalty, which, however, he reduced to the advantage of these persons. That was not only an irregularity in procedure, but the order itself became a nullity." (Emphasis supplied)

13. It was held in ***Rananda Choudhury v. State of Orissa, 1978 Cri LJ 597,*** that the failure to produce the accused on the due date *ipso facto* establishes the infringement of the condition of the bail bond. It was observed:

> "**5.** ... The above case arose out of a reference made by the Sessions Judge to the effect that the learned Magistrate has acted irregularly. According to the Sessions Judge, a notice to the surety was a must, calling upon him to show cause, and after hearing him alone, the order of forfeiture could have been passed. In that reference, certain citations were referred to. But, ultimately, this Court held otherwise as quoted above. Subsequently, this case has been followed in the case of ***Jagannath Rout v. State of Orissa : (1975 Cri LJ 1084 (Orissa))***, decided by Hon'ble Justice Patra as A.C.J. In that case, S. 514 was under consideration, and it was held that *the Magistrate can straightway issue a notice to the surety to show cause why the penalty mentioned in the bond should not be recovered from him, and it is at that stage that the*

surety is entitled to put forth such a plea as would be available to him.

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8. This case refers to ***AIR 1929 Pat 658, AIR 1962 Pat 431: ((1962) 2 Cri LJ 627), (1974) 1 Cut WR 356***, which have been relied on. The difference highlighted in the decisions of this Court has been fully reflected in the new provision S. 446 of the Code, which runs thus: —

> Where a bond under this Code is for appearance, or production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited, or where, in respect of any other bond under this Code, it is proved to the satisfaction of the Court by which the bond was taken or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited. The Court shall record the grounds of such proof and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

9. The provision of this new Code brings the difference, namely, where a bond under this Code is for appearance, or where, in respect of any other bond. In the instant case, it is for causing the appearance of the accused by S. 446, sub-sec. (1). The learned Sessions Judge, on the failure of the bailor-petitioners to cause the production of the accused, forfeited the bail bond and, in the Misc. case, has asked them to show cause as to why the penalty under the bond should not be realised. Finally, hearing the explanation offered by the bailor petitioners in the Misc. case, he has directed that the amount be realised under the Distress Warrant as quoted above. It is very much in conformity with the decision of this Court as well as the provisions of S. 446 Cr. P.C. (New). There is no case of any prejudice to the bailors. The amount under the bond is only

Rs. 200/-, which they have been asked to pay. The amount, also in the circumstances indicated by the learned Sessions Judge, is not excessive. Accordingly, I would dismiss this revision and direct the petitioners to pay a fine of Rs. 200/-, the amount as directed by the learned Sessions Judge." (Emphasis supplied)

14. A similar view was taken in ***Mudhu v. State of Karnataka, ILR 1981 Kar 1138***, wherein it was held: -

"**4.** Section 446(1) of the Code lays down that if it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited. This wording clearly shows that if a term of a bond is violated or a breach of a term of a bond is committed, the bond automatically stands forfeited. The Magistrate has to satisfy himself that it has been forfeited. No formal order of forfeiting the bond is called for. Therefore, the first argument of Sri Kempanna that the Magistrate has issued a notice without forfeiting the bond has no legs to stand.

5. Sri Kempanna nextly argued that the Magistrate ought to have given an opportunity to the petitioner to produce the accused after the petitioner appeared before the Court in response to the notice served on him, and that he has failed to do so, and, therefore, the levying of a penalty, as has been made by both the Courts below, is not in accordance with law. Here again, *I see no force in the argument because it is not provided in Section 446 of the Code that an opportunity should be afforded to the surety to produce the accused. After all, forfeiture of the bond, as already held above, takes place as soon as the accused absents himself on a particular date of hearing. If the surety is able to produce the accused or produce the accused, the fact or circumstance may be taken into consideration by the Magistrate who has taken action against the surety in regard to levying of penalty on the surety. The Magistrate can even waive the levying of a penalty.*" (Emphasis supplied)

15. This position was reiterated in ***Sadananda v. State of Karnataka, 1985, Cri LJ 756*** and it was held that Section 446 of Cr.P.C. does not provide for any notice to be issued to the surety before forfeiting the bonds executed by him. It was observed: -

> "**5.** *Section 446 of the Code does not provide for any notice to be issued to the surety before forfeiting the bond executed by him for failure of the terms of the bond executed by him*. The wording of Section 446(1) clearly shows that if a term of a bond is violated or a breach of a term of a bond is committed, the bond automatically stands forfeited. All that is required is that the Magistrate has to satisfy himself that the bond has been forfeited. Therefore, the issue of the notice to the surety before forfeiting the bond is not necessary (see ***Madhu @ Bella Kudtarkar v. State of Karnataka [ILR 1981 Kar 1138***]).
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> **6.** However, it is clear from the last portion of sub-section (1) of Section 446 that once the bond has been forfeited, the Court shall call upon the surety, bound by such bond, to pay the penalty thereof or to show cause why it should not be paid and at that stage the Court shall record the grounds of the proof of the forfeiture of the bond. In other words, at the stage of issuing the notice to the surety after forfeiting his bond, the Court shall record the grounds of the proof of the forfeiture of the bond and call upon the surety to pay the penalty or to show cause why it should not be paid. Obviously, the law enjoins upon the Court to record the grounds of forfeiture of the bond at the time of issuing the notice to the surety, calling upon him to show cause why it should not be paid, so as to enable the surety to show cause, if any, against payment of the bond amount by way of penalty. This is particularly so because no notice is contemplated under Section 446 to the surety before forfeiting his bond. This being the position in law, it seems to me that strict compliance with the provision relating to the issue of the notice to the surety after forfeiting the

bond should be insisted upon because action to be taken against the surety in these proceedings is of a penal nature." (Emphasis supplied)

16. Delhi High Court also took a similar view in ***Sham Sunder v. State (NCT of Delhi) 1990 Cri LJ 2370,*** wherein it was held at page 2372:

> "8. *There is no requirement of law that before forfeiting the surety bond, any notice was liable to be given to the surety. In accordance with the terms of the surety bond, the same stood forfeited when the accused was declared a proclaimed offender, and despite opportunities being given to the surety, the surety failed to produce the accused in court.*
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> 9. In ***Ghulam Mehdi v. State of Rajasthan, AIR 1960 SC 1185: (1960 Cri LJ 1527)***, it has been held that notice to show cause is liable to be issued to the surety only to explain as to why he should not be made to pay the amount of the bond already forfeited as a penalty. In ***Fatehchand Wadhumal v. Emperor, AIR 1940 Sind 136 (1940-41 Cri LJ 802)***, while interpreting the similar provisions of the old Criminal P.C. contained in S. 514, a Division Bench of the said High Court clearly held that *a bond for appearance stands forfeited when accused does not appear and it does not require the court to issue notice to show cause why the bond should not be forfeited.* A similar view has been laid down by a single Judge of Orissa High Court in ***Ramananda Choudhury v. State of Orissa, 1978 Cri LJ 597***, I hold that it was not necessary for the magistrate to have passed any specific order in so many words that the bond stood forfeited before issuing notice to the surety under S. 446 of the Criminal P.C. to explain why the amount of bond which stood forfeited be not realised from him as fine. *The surety bond of the petitioner stood forfeited as soon as a breach of the terms of the bond was committed on the failure of the accused to appear in court on the dates fixed by the court and failure of the surety to produce the accused, and the accused having been*

> *declared a proclaimed offender*. The contents of the notice under S. 446 of the Criminal P.C. served on the surety clearly indicate that the bond of the surety stood forfeited, and the same can be treated as a specific order of the Magistrate forfeiting the surety bond, as no notice was required to be given to the surety before forfeiting the surety bond. So, I find no merit in their petition." (Emphasis supplied)

17. The Division Bench of Kerala High Court also held in ***Thundichi v. State of Kerala*, *2009 SCC OnLine Ker 6527,*** that there is no requirement of issuing notice before the forfeiture of the bond. It was observed: -

> "**7.** On perusal of the provision and Form No. 45 of the bond, it is clear that as soon as there is a default by the accused in not keeping himself present in the Court on the date of trial, the bond gets automatically forfeited. The law does not provide any requirement of the satisfaction to be arrived at by the Court as to whether the absence is wilful or not. *At this stage, there is also no requirement prescribed as to the Court to satisfy itself by giving an opportunity, either to the accused or to the surety, thereof. In the case of a bond for appearance, the court, on its own observation, is able to see whether the accused is present or not and if he is not present, it has to proceed under S. 446 to declare the bond automatically forfeited*. In our view, no independent proof is necessary at this stage, and it would be a meaningless formality to take evidence as to the obvious fact of the absence of the accused before the court on the day of the trial. The question whether the absence is wilful or not is immaterial at that stage, since the accused and the surety are together bound themselves to have the presence of the accused on that day, and as such, mere absence itself would entitle the bond to be forfeited. The latter part of Form 45 if looked into in this regard and especially the words "in case of his making default herein, I hereby bind

myself to forfeit to Government the sum of rupees....." indicate that both the accused and the surety are aware of the fact that mere absence, for whatever reasons, wilful or not, by the very absence of the accused would result in only one situation, *viz.*, forfeiture of the bond. As such, for this purpose, in our view, there need not be any opportunity given to the surety or any proof or evidence in respect of the explanation of the accused or the surety as to whether the absence was wilful or not, which need not be gone into.

8. Moreover, this so-called opportunity to the surety for the absence of the accused is provided at a later stage, i.e., under sub-s. (2) of S. 446 Cr. P.C. It is only at the stage of payment of penalty that the law itself provides an opportunity, and if sufficient cause is not shown, the penalty is bound to follow, apart from the forfeiture of the bond amount. Under sub-s. (3) of S. 446, it is also provided that the Court, after giving an opportunity to the surety, has the discretion to either levy or not any penalty and even remit any portion of the penalty and enforce the payment in part only.

9. *On detailed reading of the entire provision, in our view, forfeiture of the bond on mere physical absence of the accused results in automatic forfeiture and there need not be any enquiry, including any opportunity to the surety be given at that stage or there is any requirement to consider any explanation in this regard, especially when that stage is provided later, as can be seen from sub-s. (2) and (3) of S. 446 Cr. P.C.* In view of our aforesaid finding, we find that the learned Single Judge, while laying down the law in the cases of ***Usman v. State of Kerala and Geetha v. State of Kerala*** (supra), has travelled beyond the scope of the provision itself. Our observation is further fortified by an earlier pronouncement of this Court in the case of ***Kafoor Raja v. State of Kerala (1973 KLT 45)*** wherein it is held thus:

> "In the case of a bond for appearance before a court, the cause for forfeiture thereof arises immediately on the failure on the part of the person bound by the bond to appear in court at the appointed time or on

the appointed day, as no further proof regarding the breach of the conditions is called for. In the case of a bond for keeping the peace or for good behaviour, the position is different for obvious reasons; proof becomes necessary for the Magistrate to satisfy himself that there has been a breach of the conditions of the bond before an order forfeiting the bond could be passed. A fact could be said to be proved only when its existence is proved according to the provisions contained in the Evidence Act. It, therefore, appears to our mind that the satisfaction is based on proof contemplated by sub-s. (1) of S. 514 is not mere subjective satisfaction. The Magistrate cannot also allow the satisfaction required to be reached by him by a judicial process, to be substituted by *prima facie* satisfaction of someone else, like the Sub Inspector in the present case. Prudence dictates that to conform to the spirit of the provisions contained in the sub-section, the Magistrate should insist on better proof without resting content with the report of the Police Officer or his evidence based on hearsay information, when it is a question of forfeiture of a bond. The examination of at least one person who had direct knowledge about the alleged involvement in the crime of the person whose bond is sought to be forfeited would tend to minimise the chances for abuse of process by interested persons. Of course, the standard of proof required in proceedings like this may not necessarily be equal to that required in a case for the conviction of an accused. In appropriate cases, even affidavits by persons having direct knowledge about the incident may serve the purpose, provided the persons swearing to such affidavits would be made available for cross-examination if the correctness of the averments is disputed by the persons against whom such affidavits are to be used. To dispense with such proof absolutely and place reliance solely on the police

> report or the evidence of the police officer, who claims to have no direct knowledge about the actual involvement of the accused, would lead to an awkward situation and a miscarriage of justice, particularly in a case which ultimately ends in discharge or acquittal. In the present case, the Magistrate had before him no legal evidence given by any person who claimed to have direct knowledge about any illegal act attributed to the persons bound by the bond, and in that view, the forfeiture of the bond cannot be upheld."

10. Considering all these aspects, we answer the reference by holding that the law laid down by the learned Single Judge in ***Usman v. State of Kerala and Geetha v. State of Kerala*** (supra) does not reflect the correct position. Hence, they are overruled. *We hold that there is absolutely no necessity of recording any satisfaction, reason and proof at the automatic stage of forfeiture of the bond, as the mere absence of the accused on the date fixed would result automatically in the forfeiture of the bond.*" (Emphasis supplied)

18. This judgment was followed by ***Asokan v. State of Kerala, 2022 SCC OnLine Ker 9624,*** wherein it was held: -

> "**7.** Where a bond is for the appearance of a person before a Court, a default in his appearance, when he is not exempted by the Court, will lead to automatic forfeiture. There is no necessity of recording any satisfaction, reason or proof at the stage of forfeiture of the bond, as the mere absence of the accused on the date fixed would result automatically in the forfeiture of the bond. The law on this point was settled by a Division Bench of this Court in ***Thundichi v. State of Kerala [(2009) 4 KLT 67].***
>
> **8.** Once the bond has been forfeited, the Court is competent to call upon the concerned sureties or the person bound by it to pay the penalty therein or to show cause why it should not be paid. The appellants failed to show sufficient cause for the non-payment of the penalty. Therefore, this Court

> finds that the Court below is perfectly justified in holding that the appellants are liable to pay a penalty."

19. In ***Narata Ram versus State of H.P., 1994 Cr.LJ 491***, the petitioner Narata Ram had stood surety for the accused and executed surety bonds, undertaking that he would cause the appearance of the accused on every date of hearing. The accused absconded. A notice was issued to the surety to produce the accused, but he showed his inability. The bonds furnished by him were forfeited to the State. Proceedings under Section 446 of Cr. P.C. were initiated. The surety was permitted to produce the accused during the pendency of the proceedings under Section 446 of Cr.P.C. When he failed to do so, a penalty of Rs. 2000/- was imposed upon him.

20. This Court held that the procedure adopted by the Court was not proper. Once the bond has been forfeited, it is not permissible to afford an opportunity to produce the accused and thereafter order the payment of the penalty. It was observed: -

> "**7.** In the instant case, a show-cause notice was issued to the petitioner on 25th May 1992, pursuant to the order passed by the Sub-Divisional Judicial Magistrate. Close examination of the said order shows that none of the accused could be served for want of a correct address, nor either of them was otherwise present, and, therefore, the prosecution was ordered to furnish the correct address of

> the accused, within seven days and get it served for their appearance on 1st July,1992, through non-bailable warrants. It further shows that notice to Ashok Kumar, Advocate, who identified the personal bonds of the accused, was also issued. Further, this order discloses that the petitioner showed his inability to produce either of the accused persons, and this led to the order directing the forfeiture of the bonds by initiating proceedings under Section 446 of the Code of Criminal Procedure separately. The Court below further directed the issuance of a show-cause notice to the petitioner as to why the amount under the bonds be not forfeited to the State of Himachal Pradesh. Lastly, this order also shows that the petitioner was afforded another opportunity to produce the accused persons on 1st July 1992. It was on the next date, 1st July 1992, that the final order imposing a part penalty of Rs. 2000/- in case of each surety bond was passed. It would be pertinent to note that no fresh order forfeiting the bonds of the petitioner in respect of each surety bond was passed, nor any fresh show-cause notice was issued on 1st July 1992, pursuant to the petitioner having expressed his inability to produce either of the accused persons in the Court."

21. The Court formulated the question whether the surety bonds can be ordered to be forfeited along with an opportunity to the surety to produce the accused in the Court and answered it negatively. It was observed:-

> "8. The question is whether a surety bond can be ordered to be forfeited, simultaneously, an opportunity having been afforded to the surety to produce the accused in the Court? The answer is in the negative."

22. It was held that Section 446 of CPC contemplates two stages. The first stage is to satisfy the Court that the bond has

been forfeited, and the second stage is the realisation of the amount. It was observed:-

> "**5.** The fact that a surety bond in the sum of Rs. 5000/- in respect of each one of the accused persons was executed by the petitioner and that he had undertaken to produce the accused persons before the Court, and the fact of their failure to appear on any one of the dates fixed for hearing, is not disputed. Also, there is no controversy that the responsibility of surety arises from the execution of the surety bond by him, and it is not contingent upon the execution of a personal bond by the accused. Thus, the forfeiture of the personal bond of the accused is not a condition precedent to the forfeiture of the bonds executed by the sureties. [See: ***Ram Lal v. State of U.P., 1980 Cri LJ 826 : ((1979) 2 SCC 192: AIR 1979 SC 1498)***]. A perusal of Section 446 of the Code of Criminal Procedure contemplates two stages. The first stage is for the Court to satisfy itself that the bond has been forfeited. The second stage relates to the realisation of the forfeited amount of the bond. For this purpose, it has to give him notice either to pay the penalty or to show cause why it should not be paid. It is imperative to note that if there are sufficient circumstances before the Court, on the basis of which it can accept or reject the cause shown, it need not take any evidence.
>
> **9.** The Scheme of Section 446 of the Code of Criminal Procedure envisages two stages, as indicated above. No doubt, the accused did not appear, nor could they be produced by the petitioner, and non-bailable warrants had been issued for their appearance on 1st July, 1992. The Court below had also afforded an opportunity to the petitioner to produce the accused on 1st July, 1992. Had this last opportunity to produce the accused been afforded, the portion of the order dated 25th May 1992, directing the forfeiture of the amount under the bonds was legal and valid, and for the reasons stated above, the Court could be deemed to have satisfied regarding the existence of

> reasonable grounds for directing the forfeiture of the bond. Here, a composite order was passed. The petitioner could have produced the accused on 1st July 1992, and had he complied with the order to this effect, the circumstances would not have attracted the issuance of an order forfeiting the bonds. Thus, in such circumstances, the Court cannot be deemed to have satisfied itself as to the existence of grounds for directing the issuance of forfeiture of the bonds on 25th May 1992. In other words, the trial Court committed an illegality by exercising jurisdiction improperly, which had also not been noticed by the appellate Court."

23. It was further held that the notice was not proper as it was not in form 48 of Schedule (2), which is a violation of natural justice. It was observed:-

> "**10.** Even otherwise the perusal of the show-cause notice issued to the petitioner shows that it is not in Form No. 48 of Schedule II of the Code of Criminal Procedure. The notice does not indicate whether the accused had failed to appear in terms of the surety bond, indicating that surety had bound himself for regular appearance of the accused in the Court in relation to the cases concerned and further that surety had bound himself in default thereof to forfeit the amount of the bond to the Government nor it discloses that the accused had failed to appear before the Court below and by reason thereof, petitioner had forfeited the bond amount. The show cause notice is in a typed form. Even the contents thereof do not depict the requisites of the prescribed show cause notice in Form No. 48. A mechanical process had been adopted by the Court below in the issuance of this notice to the petitioner.
>
> **11.** In this view of the matter too, the show-cause notice so issued, cannot be deemed to be a legal and valid show-cause notice for taking further action in proceedings under Section 446 of the Code of Criminal Procedure.

> **12.** Learned counsel has also submitted that no opportunity of being heard was afforded to the petitioner in the show-cause notice. I have already observed that no legal and valid notice was served. However, in the ordinary course, the rule of natural justice requires that before any adverse order is passed, the affected party should be given an opportunity of being heard."

24. It was held in the course of discussion that a notice to the surety cannot be issued unless the order of forfeiture is passed. It was observed:

> "**6.** It is also settled law that a notice to the surety cannot be issued unless the order of forfeiture is passed. Thereafter, the Court has to consider the grounds made out by the surety in support of his case, and after considering the case on merits, if the Court is dissatisfied with the reasons shown, an order has to be made for the realisation of the penalty. I am supported in my view by the observations made in the case of ***Dhanvir v. State, 1975 Cri LJ 1347*** (Him Pra).

25. It is apparent from the judgment of this Court in Narata Ram that it was not concerned with the question whether a show cause notice is required to be issued to the surety before the forfeiture of the bond. Even though in the course of the discussion, the Court held that a show cause notice cannot be issued before the forfeiture of the bond.

26. Hon'ble Mr Justice R. V. Raveendaran J explained in his article ***Precedents—Boon or Bane? (2015) 8 SCC J-1*** that the ratio

decidendi of a decision constitutes binding precedent and not every observation contained in it. He wrote:

> "The well-recognised definition of precedent is '*an adjudged case or decision of a court, considered as furnishing an example or authority for an identical or similar case afterwards arising or a similar question of law*. Salmond defines a precedent as a judicial decision which contains in itself a legal authoritative element, which is described as *ratio decidendi*. [*Salmond's Jurisprudence* (10th Edn.) 191.] The rule deducible from the application of law to the facts and circumstances of a case constitutes the *ratio decidendi* of the case. ***[Regional Manager v. Pawan Kumar Dubey, (1976) 3 SCC 334.]*** What the Judges expressly decided or what they must be considered to have decided by necessary implication by reference to the facts stated by the Judges themselves are what constitute precedents. [***Gopal Upadhyaya v. Union of India, 1986 Supp SCC 501***.]
>
> Every decision of a court should ideally comprise three components: (*a*) findings of material facts, direct and inferential; (*b*) statements of the principles of law applicable to the legal issues or problems disclosed by the facts; and (*c*) judgment (the final decision) containing the conclusions and directions of the court, based on the combined effect of (*a*) and (*b*) above. [***State of Orissa v. Mohd. Illiyas, (2006) 1 SCC 275.***] The concluding part of a decision, that is, the 'concrete decision' containing the conclusions and directions of the court, should not be confused with the ratio decidendi (reasons for the decision). While the conclusions and directions in a decision, that is, the concrete decision, alone bind the parties to the litigation, the abstract ratio decidendi of the decision, as ascertained on a consideration of the judgment in relation to the subject matter of the decision, has the force of law and is binding on all subordinate courts and tribunals. [***Halsbury's Laws of England, 4th Edn., Vol. 26, Para 573***.] In other words, a decision is binding as a

precedent, not because of its final conclusions or directions, but because of its ratio. Ratio decidendi refers to "the principle of law on which a decision is based", or the reason for the decision, or the point in a case which determines what the decision should be. The legal principle that constitutes the "ratio" of a decision is the "precedent" for other cases.

PART III

Principles to be kept in view by those who apply Precedents

The basic principles to be kept in view by the courts/authorities who are required to follow precedents are:

(*i*) The "*ratio*" of the decision is the precedent. Neither factual findings nor directions issued by the Supreme Court under Article 142 are precedents.

(*ii*) *Obiter dicta* in a decision is not a precedent.

(*iii*) Non-speaking orders are not precedents.

(*iv*) Precedents are not to be read as statutory provisions.

(*v*) Even small differences in facts may lead to a different conclusion.

(*vi*) Decisions rendered *per incuriam* are not to be followed.

(*vii*) Some precedents cease to be binding.

(*viii*) Divergent precedents should be dealt with in accordance with the settled principles relating to precedents.

Unfortunately, the above principles are repeatedly ignored, many a time even by the High Courts, thereby defeating the very object and efficacy of precedents.

(i) The "ratio" of the decision is the precedent

The first principle of precedents is that only a decision relating to or involving a question of law or interpretation of a legal principle can be said to have a *ratio* and used as a precedent. A decision or judgment rendered purely on the

> basis of the fact situation of a case, without involving the application of any legal principle or provision of law, cannot be considered as a precedent for deciding any other case involving a different set of facts. [***Prakash Chandra Pathak v. State of U.P., AIR 1960 SC 195; PGI of ME & Research v. Vinod Krishan Sharma, (2001) 2 SCC 59 and U.P. Brassware Corpn. Ltd. v. Uday Narain Pandey, (2006) 1 SCC 479.***]
>
> (*iv*) ***Decisions of a court are not to be read as statutory provisions***
>
> The next principle of precedents is that the contents of a decision of a court are not to be read as if they are provisions of a statute (or as Euclid's theorems, which are known for their precision). Judges interpret statutes, but their judgments are not to be construed or interpreted as statutes. A statutory provision is not made with reference to any particular case but is a pure principle in the abstract. The words, phrases and provisions of a statute are interpreted, if necessary, by embarking on discussions to explain the meaning. On the other hand, the contents of a judgment are built around the facts of that case and the legal position is also stated with reference to the factual background of the case."

27. It was held in the ***Punjab Land Development and Reclamation Corporation, Ltd. v. Presiding Officer, Labour Court, (1990) 3 SCC 682: 1991 SCC (L&S) 71,*** that a decision is an authority for what it decides, and only the ratio decidendi is binding. It was observed:

> **44.** An analysis of judicial precedent, *ratio decidendi* and the ambit of earlier and later decisions is to be found in the House of Lords' decision in ***F.A. & A.B. Ltd. v. Lupton (Inspector of Taxes) [1972 AC 634 : (1971) 3 All ER 948]***, Lord Simon concerned with the decisions in ***Griffiths v. J.P.***

Harrison (Watford) Ltd. [1963 AC 1 : (1962) 1 All ER 909] and Finsbury Securities Ltd. v. Inland Revenue Commissioner [(1966) 1 WLR 1402 : (1966) 3 All ER 105] with their interrelationship and with the question whether ***Lupton's case [1972 AC 634 : (1971) 3 All ER 948***] fell with-in the precedent established by the one or the other case, said: (AC p. 658)

> "...what constitutes binding precedent is the *ratio decidendi* of a case, and this is almost always to be ascertained by an analysis of the material facts of the case—that is, generally, those facts which the tribunal whose decision is in question itself holds, expressly or implicitly, to be material."

45. It has also been analysed: (AC pp. 658-59)

> "A judicial decision will often be reached by a process of reasoning which can be reduced into a sort of complex syllogism, with the major premise consisting of a pre-existing rule of law (either statutory or judge-made) and with the minor premise consisting of the material facts of the case under immediate consideration. The conclusion is the decision of the case, which may or may not establish new law — in the vast majority of cases, it will be merely the application of existing law to the facts judicially ascertained. Where the decision does constitute new law, this may or may not be expressly stated as a proposition of law: frequently, the new law will appear only from subsequent comparison of, on the one hand, the material facts inherent in the major premise with, on the other, the material facts which constitute the minor premise. As a result of this comparison, it will often be apparent that a rule has been extended by an analogy expressed or implied."

46. To consider the *ratio decidendi* of a case, we have, therefore, to ascertain the principle on which the case was decided. Sir George Jessel in ***Osborne v. Rowlatt [(1880) 13***

> ***Ch D** 774]*, remarked that (Ch D, p. 785) 'the only thing in a Judge's decision binding as an authority upon a subsequent Judge is the principle upon which the case was decided'.
>
> **47.** The *ratio decidendi* of a decision may be narrowed or widened by the judges before whom it is cited as a precedent. In the process, the *ratio decidendi*, which the judges who decided the case would themselves have chosen, may be even different from the one which has been approved by subsequent judges. This is because judges, while deciding a case, will give their own reasons but may not distinguish their remarks in a rigid way between what they thought to be the *ratio decidendi* and what were their *obiter dicta*, that is, things said in passing having no binding force, though of some persuasive power. It is said that "a judicial decision is the abstraction of the principle from the facts and arguments of the case". "A subsequent judge may extend it to a broader principle of wider application or narrow it down for a narrower application". The submissions of Mr Venugopal that for the purpose of *ratio decidendi*, the question is not whether a subsequent bench of this Court thinks that it was necessary or unnecessary for the Constitution Bench, or the earlier bench to have dealt with the issue, but whether the Constitution Bench itself thought it necessary to interpret Section 2(*oo*) for arriving at the final decision has to be held to be untenable in this wide and rigid form."

28. Similarly, it was held in ***Islamic Academy of Education v. State of Karnataka, (2003) 6 SCC 697: 2003 SCC OnLine SC 856*** that a judgment cannot be read like a statute and only the *ratio decidendi* is binding. It was observed:

> ***Interpretation of a judgment***
>
> **139.** A judgment, it is trite, is not to be read as a statute. The *ratio decidendi* of a judgment is its reasoning, which

can be deciphered only upon reading the same in its entirety. The *ratio decidendi* of a case or the principles and reasons on which it is based is distinct from the relief finally granted or the manner adopted for its disposal. (See ***Executive Engineer, Dhenkanal Minor Irrigation Division v. N.C. Budharaj [(2001) 2 SCC 721]***.)

140. In ***Padma Sundara Rao v. State of T.N. [(2002) 3 SCC 533],*** it is stated: (SCC p. 540, paragraph 9)

> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in ***Herrington v. British Railways Board [(1972) 2 WLR 537: 1972 AC 877 : (1972) 1 All ER 749 (HL)]*** (Sub nom ***British Railways Board v. Herrington***). Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

(See also ***Haryana Financial Corpn. v. Jagdamba Oil Mills [(2002) 3 SCC 496]***.)

141. In ***General, Electric Co. v. Renusagar Power Co. [(1987) 4 SCC 137***] it was held: (SCC p. 157, paragraph 20)

> "As often enough pointed out by us, words and expressions used in a judgment are not to be construed in the same manner as statutes or as words and expressions defined in statutes. We do not have any doubt that when the words 'adjudication of the merits of the controversy in the suit' were used by this Court in ***State of U.P. v. Janki Saran Kailash Chandra [(1973) 2 SCC 96: AIR 1973 SC 2071 : (1974) 1 SCR 31]*** the words were not used to take in every adjudication which brought to an end the proceeding before the court in whatever manner but were meant to cover only such adjudication as touched upon the real dispute between the parties which gave rise to the action. Objections to

> adjudication of the disputes between the parties, on whatever ground, are in truth not aids to the progress of the suit but hurdles to such progress. Adjudication of such objections cannot be termed as adjudication of the merits of the controversy in the suit. As we said earlier, a broad view has to be taken of the principles involved, and a narrow and technical interpretation which tends to defeat the object of the legislation must be avoided."

142 In ***Rajeswar Prasad Misra v. State of W.B. [AIR 1965 SC 1887: (1965) 2 Cri LJ 817]*** it was held:

> "No doubt, the law declared by this Court binds courts in India, but it should always be remembered that this Court does not enact."

(See also ***Amar Nath Om Prakash v. State of Punjab [(1985) 1 SCC 345: 1985 SCC (Tax) 92]*** and ***Hameed Joharan v. Abdul Salam [(2001) 7 SCC***

143. It will not, therefore, be correct to contend, as has been contended by Mr Nariman, that answers to the questions would be the ratio to a judgment. The answers to the questions are merely conclusions. They have to be interpreted, in a case of doubt or dispute with the reasons assigned in support thereof in the body of the judgment, wherefore, it would be essential to read the other paragraphs of the judgment also. It is also permissible for this purpose (albeit only in certain cases and if there exist strong and cogent reasons) to look to the pleadings of the parties.

144. In ***Keshav Chandra Joshi v. Union of India [1992 Supp (1) SCC 272: 1993 SCC (L&S) 694 : (1993) 24 ATC 545***], this Court, when faced with difficulties where specific guidelines had been laid down for the determination of seniority in ***Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra [(1990) 2 SCC 715: 1990 SCC (L&S) 339 : (1990) 13 ATC 348]*** held that the conclusions have to be read along with the discussions and the reasons given in the body of the judgment.

> **145.** It is further trite that a decision is an authority for what it decides and not what can be logically deduced therefrom. (See ***Union of India v. Chajju Ram [(2003) 5 SCC 568]***.)

29. A similar view was taken in ***Arasmeta Captive Power Co. (P) Ltd. v. Lafarge India (P) Ltd., (2013) 15 SCC 414: (2014) 5 SCC (Civ) 302: 2013 SCC OnLine SC 1094,*** wherein it was observed:

> "**31.** At this juncture, we think it condign to refer to certain authorities which lay down the principle for understanding the ratio decidendi of a judgment. Such a deliberation, we are disposed to think, is necessary as we notice that contentions are raised that certain observations in some paragraphs in ***SBP [SBP & Co. v. Patel Engg. Ltd., (2005) 8 SCC 618]*** have been relied upon to build the edifice that latter judgments have not referred to them.
>
> **32.** In ***Ambica Quarry Works v. State of Gujarat [(1987) 1 SCC 213],*** it has been stated (SCC p. 221, para 18) that the ratio of any decision must be understood in the background of the facts of that case. Relying on *Quinn* v. *Leathem* [1901 AC 495 (HL)], it has been held that the case is only an authority for what it actually decides, and not what logically follows from it.
>
> **33.** Lord Halsbury in ***Quinn [1901 AC 495 (HL)]*** has ruled thus: (AC p. 506)
>
> > "... there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. *The other is that a case is only an authority for*

> *what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.*" (emphasis supplied)

34. In ***Krishena Kumar v. Union of India [(1990) 4 SCC 207: 1991 SCC (L&S) 112 : (1990) 14 ATC 846]*** the Constitution Bench, while dealing with the concept of ratio decidendi, has referred to ***Caledonian Railway Co. v. Walker's Trustees [(1882) LR 7 AC 259 : (1881-85) All ER Rep 592: 46 LT 826 (HL)]*** and ***Quinn [1901 AC 495 (HL)]*** and the observations made by Sir Frederick Pollock and thereafter proceeded to state as follows : (***Krishena Kumar case [(1990) 4 SCC 207: 1991 SCC (L&S) 112 : (1990) 14 ATC 846***], SCC pp. 226-27, para 20)

> "*20.* ... The ratio decidendi is the underlying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case which gives rise to the decision. *The ratio decidendi has to be ascertained by an analysis of the facts of the case and the process of reasoning involving the major premise consisting of a pre-existing rule of law, either statutory or Judge-made, and a minor premise consisting of the material facts of the case under immediate consideration.* If it is not clear, it is not the duty of the court to spell it out with difficulty in order to be bound by it. In the words of Halsbury (4th Edn., Vol. 26, para 573):
>
> > 'The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, as ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which when it is clear ... it is not part of a tribunal's duty to spell out with difficulty a ratio decidendi to be

bound by it, *and it is always dangerous to take one or two observations out of a long judgment and treat them as if they gave the ratio decidendi of the case. If more reasons than one are given by a tribunal for its judgment, all are taken as forming the ratio decidendi.*"

(emphasis supplied)

35. In ***State of Orissa v. Mohd. Illiyas [(2006) 1 SCC 275: 2006 SCC (L&S) 122],*** it has been stated thus: (SCC p. 282, para 12)

"*12.* ... According to the well-settled theory of precedents, every decision contains three basic postulates: (*i*) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (*ii*) statements of the principles of law applicable to the legal problems disclosed by the facts; and (*iii*) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein, nor what logically flows from the various observations made in the judgment."

36. In ***Islamic Academy of Education v. State of Karnataka [(2003) 6 SCC 697],*** the Court has made the following observations: (SCC p. 719, para 2)

"2. ... The ratio decidendi of a judgment has to be found out only by reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. *In case of any doubt, as regards any observations, reasons and principles, the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire ratio decidendi of the judgment.*"

(emphasis supplied)

37. The said authorities have been relied upon in ***Natural Resources Allocation, In re, Special Reference No. 1 of 2012 [(2012) 10 SCC 1]***, SCC p. 68, para 73.

38. At this stage, we may also profitably refer to another principle which is of assistance to understand and appreciate the ratio decidendi of a judgment. The judgments rendered by a court are not to be read as statutes. In ***Union of India v. Amrit Lal Manchanda [(2004) 3 SCC 75: 2004 SCC (Cri) 662],*** it has been stated that: (SCC p. 83, para 15)

> "*15.* ... Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute, and that too taken out of their context. [The] observations must be read in the context in which they appear to have been stated. ... To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark on lengthy discussions, but the discussion is meant to explain and not to define. Judges interpret statutes; they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes."

39. In ***Som Mittal v. State of Karnataka [(2008) 3 SCC 574: (2008) 2 SCC (Cri) 1: (2008) 1 SCC (L&S) 910]*** it has been observed that: (SCC p. 581, para 9)

> "*9.* ... Judgments are not to be construed as statutes. Neither words nor phrases in judgments are to be interpreted like provisions of a statute. Some words used in a judgment should be read and understood contextually and are not intended to be taken literally. Many a time, a Judge uses a phrase or expression with the intention of emphasising a point or accentuating a principle, or even by way of a flourish of writing style. Ratio decidendi of a judgment is not to be discerned from a stray word or phrase read in isolation."

30. It was laid down by the Gujarat High Court in ***Mohmad Ayub @ Babbu Sagirbhai Shaikh Versus Commissioner of Police, Ahmedabad 1994 (1) GLR 589*** that a decision is only an authority for what it decides. The essence of a decision is its ratio and not every observation found therein. It was observed:

> "[3] In ***State of Orissa v. Sudhansu Sekhar Misra & Ors., AIR1968 SC 647***, five learned Judges of the Apex Court spoke as follows:
>
> > "... A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio, and note every observation found therein, nor what logically follows from the various observations made in it. On this topic, this is what the Earl of Halsbury LC said in ***Quinn v. Leathern, 1901 AC 495***: 'Now before discussing the case of ***Alien y. flood, 1898 AC 1*** and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all.'

It is not a profitable task to extract a sentence here and there from a judgment and to build upon it."

In ***H. H. Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur & Ors. v. Union of India, AIR 1971 SC 530***, a case decided by eleven Judges, the Apex Court took note of the fact that the Court was not called upon to decide a particular question as of law, and observed as follows:

> ".....It is difficult to regard a word, a clause, or a sentence occurring in a judgment of this Court, divorced from its context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment."

In Municipal Committee, Amritsar v. Hazara Singh, AIR 1975 SC 1087, three Judges of the Apex Court opined that distortion of the passage in a judgment could not pass muster, and approved the following observations of the High Court of ***Kerala in State of Kerala v. Parameswaran Filial Vasudevan Nair, 1975 FAC 8 : (1975 Cri. LJ 97) :***

> "Judicial propriety, dignity and decorum demand that, being the highest judicial tribunal in the country, even an obiter dictum of the Supreme Court should be accepted as binding. The declaration of law by that Court, even if it be only by the way, has to be respected. But all that does not mean that every statement contained in a judgment of that Court would be attracted by Art. 141. Statements on matters other than law have no binding force. Several decisions of the Supreme Court are on facts and the Court itself has pointed out in ***Gurcharan Singh v. State of Punjab, (1972 FAC 549)*** and ***Prakesh Chandra Palhak v. State of Uttar Pradesh (AIR 1960 SC 195)*** that as on facts no two cases could be similar, its own decisions which were essentially on questions of fact could not be relied upon as precedents for the decision of other eases."

In Additional District Magistrate, ***Jabalpur v. Shivakant Shukla, AIR 1976 SC 1207,*** a case decided by five Judges, it was cautioned as follows :

> "……Moreover, it must be remembered that when we are considering the observations of a high judicial authority like this Court, the greatest possible care must be taken to relate the observations of a judge to the precise issues before him and to confine such observations, even though expressed in broad terms, in the general compass of the question before him unless he makes it clear that he intended his remarks to have a wider ambit...."

[4] Even observations on law, though not part of the ratio decidendi of law in the pronouncement, classified as obiter dicta emanating from the Apex Court, are binding on this Court, and this Court cannot ignore them. An obiter dictum is an observation by the Court on a legal question, not factual, suggested by a case before it, but not arising in such a manner as to require a decision. In the ***Commissioner of Income-Tax, Hyderabad, Deccan v. M/s. Vazir Sultan & Sons, AIR 1959 SC 814***, it was stated :

> " ..... The obiter dicta of this Court, however, are entitled to considerable weight and we on our part fully endorse the Same. ... "
>
> In Income-Tax Officer, Tuticorin y. T S. Devinatha Nadar, AIR 1968 SC 623, even an opinion of the Apex Court was held to merit the highest respect.

[5] In ***Municipal Committee, Amritsar v. Hazara Singh, AIR 1975 SC 1087***, as already noted, the Apex Court approved the view of the Kerala High Court that "judicial propriety, dignity and decorum demand that being the highest judicial tribunal in the country, even obiter dictum of the Supreme Court should be accepted as binding Declaration of law by that Court even if it be only, by the way, has to be respected".

[6] Either way, as ratio decidendi or obiter dictum, it has got to be a proposition of law. But if what has been expressed is only a discussion of factual aspects of the case and a pronouncement on

the same, then that cannot be cited as a precedent to govern decisions in other cases. In ***Prakash Chandra Pathak v. State of Uttar Pradesh, AIR 1960 SC 195***, this is how the proposition was set down :

> " ... It is enough to say that decisions even of the highest Court on questions which are essentially questions of fact, cannot be cited as precedents governing the decision of other cases which must rest in the ultimate analysis upon their particular facts. ..."
>
> As to what should be the right approach to the decisions of the Apex Court, the said Court, as already noticed, in ***Municipal Committee, Amritsar v. Hazara Singh, AIR 1975 SC 1087***, approved as correct the view of the High Court of Kerala that statements on matters other than law have no binding force; several decisions of the Supreme Court are on facts; as on facts no two cases could be similar, its own decisions which were essentially on questions of fact cannot be relied upon as precedents for the decision of other cases. It has always been accepted by Courts as a well-settled theory that there are three ingredients in a decision as follows :
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> (i) Findings of material facts, direct and inferential;
>
> (ii) Statement of the principles of law applicable to the legal problems disclosed by such facts;
>
> AND
>
> (iii) Judgment based on (i) and (ii).
>
> In ***Qualcast (Wolverhampton) Ltd. v. Haynes, 1959 Appeal Cases 743***, a solution on facts was not treated as a proposition of law. The ratio decidendi may be defined as a statement of law applied to the legal problems raised by the facts as found, upon which the decision is based.
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> xxxxxxxxxxx

[29] Lord Halsbury (Halsbury's Laws of England, Fourth Edition, Vol. 26, para 573) describes the Ratio decidendi in the following manner:

> "The use of precedent is an indispensable foundation upon which to decide what the law is and its application to individual cases; it provides at least some degree of certainty upon which individuals can rely in the conduct of their affairs, as well as a basis for the orderly development of legal rules. The enunciation of the reason of principle upon which a question before a Court has been decided is alone binding as a precedent. This underlying principle is called the ratio decidendi, namely the general reasons given for the decision or the general grounds upon which it is based, detached or abstracted from the specific peculiarities of the particular case which gives rise to the decision. What constitutes binding precedent is the ratio decidendi, and this is almost always to be ascertained by an analysis of the material facts of the case, for a judicial decision is often reached by a process of reasoning involving a major premise consisting of a pre-existing rule of law, either statutory or judge-made, and a minor premise consisting of the material facts of the case under immediate consideration.
>
> The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, as ascertained on consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding; but, if it is not clear, it is not part of a tribunal's duty to spell out with difficulty a ratio decidendi in order to be bound by it, and it is always dangerous to take one or two observations out of a long judgment and treat them as if they gave the ratio decidendi of the case. // more reasons than one are given by the tribunal for its judgment, all are taken as forming the ratio decidendi."

[30] Salmond ("Salmond on Jurisprudence", Twelfth Edition, page 174), after having considered the extent to which Courts are bound by previous decisions, proceeds to examine what constitutes the decision in a case and what it is that is actually binding on later Courts.

Salmond puts it this way:

> "First, however, we must distinguish what a case decides generally and as against all the world from what it decides between the parties themselves. What it decides generally is the ratio decidendi or rule of law for which it is authority: what it decides between the parties includes far more than just this." (Underlining provided)

[31] Salmond talks of various methods of determining the ratio which have been advanced thus far and takes into consideration the "Reversal Test" of Professor Wambaugh, suggesting that we should take the proposition of law put forward by the Judge, reverse or negate it, and then see if its reversal would have altered the actual decision. Salmond takes note of another test suggested by Dr Goodhart. According to it, the ratio is to be determined by ascertaining the facts treated as material by the Judge together with his decision on those facts.

[32] Rupert Cross (Precedent in English Law, Third Edition) deals with both the above-said tests, namely, the Wambaugh Test and Dr Goodhart Test. On page 53 of his classical work, he deals with Wambaugh's Test rather elaborately and points out that Wambaugh had stated the test in the following words :

> "First, frame carefully the supposed proposition of law. Let him then insert in the proposition a word reversing its meaning. Let him then inquire "whether, if the Court had conceived this new proposition to be good, and had it in mind, the decision could have been the same If the answer be affirmative, then, however excellent the original proposition may be, the case is not a precedent for the proposition, but if the answer be negative the case is a precedent for the original proposition and possibly for other propositions also, in short, when a case turns only on one point the proposition or doctrine of the case, the reason for the decision, the ratio decidendi, must be a general rule without which the case must have been decided otherwise."

[33] Rupert Cross also makes a detailed reference to Dr Goodhart's method of determining the ratio decidendi and says that, according to Dr Goodhart, the ratio decidendi of a case is determined by ascertaining the facts treated as material by the Judge, and it is the principle to be ascertained from the Judge's decision on the basis of those facts. The learned author points out that this method of determining the ratio decidendi has the great merit of paying more regard to the facts as seen by the Judge than is provided by the Wambaugh Test.

[34] Rupert Cross, before dealing with Dr Goodhart's method of determining the ratio decidendi, takes note of the rule enunciated by Lord Halsbury in ***Quinn v. Leathern, 1901 AC 495 at page 506***. In this decision, Lord Halsbury opines thus :

> "A case is the only authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to flow logically from it."

[35] Turning to the case law in this country the reference firstly shall have to be made to the Supreme Court decision in ***Dalbir Singh & Ors. v. State of Punjab, AIR 1979 SC 1384***, which says that the only thing in a Judge's decision, binding a party is the principle upon which the case is decided and for this reason, it is important to analyse a decision and isolate from it the ratio decidendi. A Full Bench decision in ***State of Bombay v. Chhaganlal Gangaram Lavar, AIR 1955 Bombay 1 (FB),*** being an F.B. decision, says that, so long as the Supreme Court does not take a different view from the view taken by the Privy Council, the decisions of the Privy Council are still binding upon High Courts. Chief Justice Chagia, while speaking for the Full Bench, points out that what is binding is not merely the point decided but an opinion expressed by the Privy Council, which opinion is expressed after careful consideration of all the arguments and which is deliberately and advisedly given. In the same context, a Full Bench decision rendered by the Delhi High Court in ***Flying Officer S. Sundarajan v. Union of India & Ors., AIR 1970 Delhi 29***, merits consideration as it gives a clear idea in respect of the ratio by providing a negative formula and proceeds to say:

> "Under Art. 141 of the Constitution, the law declared by the Supreme Court is binding on all the Courts and therefore, even the principle enunciated by the Supreme Court, including its obiter dicta when they are stated in clear terms, has a binding force. But when a question is neither raised nor discussed in a judgment rendered by the Supreme Court, no principle of a binding nature can be deduced from it by implication."
>
> This, when presented in a positive manner instead of negative, would show that when a question is raised, discussed and decided in a judgment rendered by the Supreme Court, the same shall be a principle of a binding nature. Turning to a rather recent Supreme Court decision in ***State of U. P. & Anr. v. Mis Synthetics & Chemicals Ltd. & Anr., JT 1991 (3) SC 268***, which takes into consideration, the Supreme Court decisions in ***Municipal Corporation of Delhi v. Gurnam Kaur, (1989 (1) SCC 101)*** and in ***Shama Rao v. State of Pondicherry, (AIR 1967 SC 1680)*** lays down that, any declaration or conclusion, arrived without application of mind or preceded without any reason cannot be deemed to be the declaration of Law or authority of a general nature binding as a precedent. This negative test, when put in a positive manner, once again would go to show that a declaration or conclusion arrived at after the application of the mind and preceding cogent reasoning cannot be ignored. Speaking regarding precedents, this pronouncement says that the conclusion which is not preceded by reasoning or rationale cannot be deemed to be a law declared to have a binding effect as contemplated under Article. Article 141 of the Constitution of India. Once again, putting this in positive language, it would mean that the conclusions preceded by reasoning and rationale shall be deemed to be the law declared, having a binding effect as contemplated under Art. Article 141 of the Constitution of India.

[36] The Supreme Court has made it clear that even if a question is answered by necessary implication by the Supreme Court, then also the answer cannot be ignored by referring to the decisions

appealed against and holding that the real question that must be considered to have been answered was something else, and that, what the Judges expressly decided or what they must be considered to have decided by necessary implication would also constitute precedents. This view of the Supreme Court has been expressed unequivocally in ***Gopal Upadhyaya & Ors. v. Union of India & Ors., AIR 1987 SC 413***. The concluding portion of the pronouncement may be extracted thus :

> "When a question is answered expressly or by necessary implication by the Supreme Court the answer cannot be ignored by referring to the decision appealed against and holding that the real question that must be considered to have been answered was something else What the Judges expressly decided or what they must be considered to have decided by necessary implication by reference to the facts stated by the Judges themselves are what constitute precedents."

31. Similarly, the Hon'ble Supreme Court also held in ***State of Gujarat & Ors versus Utility Users Welfare Association & Ors 2018 (6) SCC 21*** that the Court has to apply "The Inversion Test" to determine the ratio decidendi of a case. It was observed:

> **"113.** In order to determine this aspect, one of the well-established tests is "The Inversion Test" propounded inter alia by Eugene Wambaugh, a Professor at Harvard Law School, who published a classic textbook called "The Study of Cases"56 in the year 1892. This 56Eugene Wambaugh, The Study of Cases (Boston: Little, Brown, & Co., 1892) textbook propounded inter alia what is known as the "Wambaugh Test" or "The Inversion Test" as the means of judicial interpretation. "The Inversion Test" is used to identify the ratio decidendi in any judgment. The central idea, in the words of Professor Wambaugh, is as follows:
>
> > "In order to make the test, let him first frame carefully the supposed proposition of law. Let him

> then insert in the proposition a word reversing its meaning. Let him then inquire whether, if the court had conceived this new proposition to be good, and had had it in mind, the decision could have been the same. If the answer be affirmative, then, however excellent the original proposition may be, the case is not a precedent for that proposition, but if the answer be negative the case is a precedent for the original proposition and possibly for other propositions also. (Eugene Wambaugh, The Study of Cases (Boston: Little, Brown, & Co., 1892) at pg. 17)"
>
> **114.** In order to test whether a particular proposition of law is to be treated as the ratio decidendi of the case, the proposition is to be inversed, i.e., removed from the text of the judgment as if it did not exist. If the conclusion of the case would still have been the same even without examining the proposition, then it cannot be regarded as the ratio decidendi of the case. This test has been followed to imply that the ratio decidendi is what is absolutely necessary for the decision of the case. "In order that an opinion may have the weight of a precedent", according to John Chipman Grey (Another distinguished jurist who served as a Professor of Law at The Harvard Law School), "it must be an opinion, the formation of which is necessary for the decision of a particular case."

32. In the present case, if the proposition of law that 'a show cause notice is required to be issued to the surety before forfeiture of his surety bonds in the absence of which the order is bad is negated', it will not make any difference to the judgment in ***Narata Ram*** (supra) because the question of issuing show cause notice before the forfeiture never arose before the Court in ***Narata Ram*** (supra); hence, it is not the ratio decidendi.

33. Therefore, the submission made on behalf of the appellant that the notice was required to be served before the forfeiture of the bond cannot be accepted.

34. It is undisputed that the main accused has absconded, and he was declared a proclaimed offender. The appellant sought time before the learned Trial Court to produce the accused, but could not produce him. He has also not informed this Court that he had succeeded in tracing the main accused or had produced him before the learned Trial Court. Therefore, the learned Trial Court had rightly held that the appellant was liable to pay the amount of ₹1,00,000/-undertaken to be paid by him in the bond furnished before the Court. He has not furnished any reason whatsoever in the reply filed by him showing that he had a sufficient cause to seek a reduction of the amount undertaken to be paid by him. He had also not assigned any sufficient cause for the non-production of the accused and stated that he came to know after receiving a notice from the Court that the accused had absconded, which shows the casual attitude adopted by him. The record shows that the appellant had failed to abide by the terms and conditions undertaken by him that he would produce the accused on each and every date of hearing. Therefore, the learned

Trial Court was justified in imposing the penalty of ₹1,00,000/- upon the appellant. There is no infirmity in the judgment/order passed by the learned Trial Court requiring any interference from this Court.

35. No other point was urged.

36. In view of the above, the present appeal fails and is dismissed.

37. A copy of this judgment, along with the record of the learned Trial Court, be sent back forthwith. Pending applications, if any, also stand disposed of

(Rakesh Kainthla)
Judge

04th May, 2026
(Kiran)