

## **MCRC-720-2017**

*(MUNNA BASOR Vs THE STATE OF MADHYA PRADESH)*

**13-01-2017**

Munna Basor S/o Kishora Basor

**Applicant**

**VERSUS**

The State of Madhya Pradesh  
through the P.S. Civil Lines, District  
Chhatarpur (M.P.).

**Respondent**

**13/01/2017**

Shri B.J. Chourasiya, learned counsel for the applicant.

Shri Y.D. Yadav, learned Panel Lawyer for the respondent-State.

With the consent of learned counsel for the parties, the matter is finally heard at the motion stage.

**Order**

The applicant has filed this petition under Section 482 of the Cr.P.C. being aggrieved by the order dated 06.01.2017 passed by the Judicial Magistrate First Class Chhatarpur in Criminal Case No.148/2002 titled State of M.P. through Police Station Civil Lines Chhatarpur Vs. Munna, whereby the learned JMFC has refused to set the applicant free from the jail terminating the imprisonment which is imposed in default of payment of fine amount simply on the ground that he has not deposited the fine amount in the court within the period set down by the revisional court.

**2.** The brief facts of the case for adjudication of this petition are summarized thus:-

**2.1** The applicant had filed Criminal Revision Case No.789/2006 before

this High Court under Section 397(1) read with 401 Cr.P.C. being aggrieved by the judgment of conviction and order of sentence dated 10.04.2006 passed by the First Additional Sessions Judge, Chhatarpur in Criminal Appeal No.125/2005 arising out of the judgment dated 15.09.2005 passed by the learned JMFC Chhatarpur in Criminal Case No.148/2002. The learned appellate Judge has convicted the applicant under Sections 325 and 323 of the IPC and sentenced thereunder to suffer on first count R.I. for one year with a fine of Rs.500/- (Only Five Hundred Rupees) with default stipulation and second count R.I. for six months. Feeling aggrieved by the judgment of the appellate court, the applicant filed the revision before this court. Vide order dated 30.11.2013, this court has partly allowed the revision and the custodial jail sentence awarded to the applicant under Section 325 IPC is reduced to the period he had already undergone and the fine sentence thereunder is raised from Rs.500/- (Only Five Hundred Rupees) to Rs.5,000/- (Only Five Thousand Rupees) and the jail sentence under Section 323 IPC is set aside and in place thereof a fine sentence of Rs.1,000/- (Only One Thousand Rupees) is imposed upon him. Thus, the total fine amount to be deposited by the applicant is Rs.5,500/- (Only Five Thousand and Five Hundred Rupees). He is directed to deposit the said amount in the concerned JMFC court within two months failing which he shall undergo simple imprisonment for a period of two months.

**2.2** When the applicant failed to deposit the fine amount within the period set down by the revisional court, on 10.11.2016, the learned JMFC issued a warrant of arrest against him. On 28.12.2016, the applicant was arrested and produced before the learned JMFC. He sent him to jail to undergo the jail sentence as awarded to him by the revisional court.

**2.3** On 06.01.2017, an application has been filed on behalf of the

applicant before the learned JMFC in which prayers are made that the permission be granted to deposit the fine amount and that the applicant be released from jail by terminating his imprisonment. The learned JMFC has permitted to deposit the fine amount probably knowing the provisions of Rule No.353 of the M.P. Rules and Orders (Criminal) but he has refused to terminate the imprisonment on the ground that he had not deposited the fine amount within the period set down by the revisional court and that he has no power to condone the delay in depositing the fine amount.

**2.4** Hence, this petition.

**3.** No need to reduce into writing the arguments made at the Bar on behalf of the parties by their counsel in this order and no need to pass an elaborate order by this court in view of the provision of Section 68 IPC about which it appears to me that neither the learned JMFC nor the learned Advocate appearing for the applicant is aware otherwise on 06.01.2017 itself, the date of passing of the impugned order and the date of depositing the fine amount on behalf of the applicant, the learned JMFC would have terminated the remaining period of the imprisonment of the applicant.

4. The provision of Section 68 IPC reads as follows -:

**68** **Imprisonment to terminate on payment of fine.**

The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

In view of the said provision, the impugned order is patently wrong and the learned JMFC has committed a legal blunder.

5. For the foregoing reasons, I allow this petition and set aside the impugned order. The learned JMFC is ordered to take steps as per the provision of Section 68 IPC and set the applicant at liberty if he is not

required in any other criminal case.

6. Accordingly, this petition is finally disposed of.

Certified copy as per rules.

**(RAJENDRA MAHAJAN)**  
**JUDGE**

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