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has been passed would be bound to pay more than the standard rent even with respect to the period during which he was a tenant in spite of the fact that he had made an application for fixation of the standard rent before passing of the ejection order against him. Such a tenant would not be even entitled to set up the plea of standard rent in defence to a suit filed against him for the recovery of rent because it is only the Controller who can fix the standard rent and the jurisdiction of the Civil Courts is barred by reason of section 50 of the Act. In this view it must be held that the Rent Control Tribunal was in error in dismissing the appeal. The appeal is therefore, allowed and the matter will go back to the Rent Controller for decision of the application on merits

The parties will appear before the Rent Controller on the 12th October, 1965.

B.R.T.

REVISIONAL CRIMINAL.

Before S. K. Kapur, J.

EDMUND N. SCHUSTER,—Petitioner.

versus

ASSISTANT COLLECTOR OF CUSTOM,—Respondent.

Criminal Revision 157-D of 1965.

1965

October, 6th.

Code of Criminal Procedure (V of 1898)—Ss. 499 and 513—Execution of bonds of sureties—Object of—Corporation—Whether can execute a surety bond.

Held, that the whole object of execution of bonds by the sureties is to secure the presence of a person facing trial. Responsibility is cast on the sureties to see that such a person does not escape. On accepting or rejecting a surety, the Court has to see that the sureties are persons of sufficient financial ability and of sufficient vigilance to secure the appearance and prevent the absconding of the accused. The obligation of vigilance cannot be effectively cast on an artificial person like a corporation. Moreover the sureties must be such persons as can in all cases be imprisoned in case of default. Since a corporation can never be arrested, the question of execution of a surety bond by it cannot arise. Hence surety bonds cannot be executed by artificial persons.

Petition for revision under sections 498 and 439 of the Code of Criminal Procedure of the order of Shri C. G. Suri, Additional

Sessions Judge, Delhi, dated 8th February, 1965 affirming that of Shri S. C. Vaish, Additional District Magistrate, Delhi, dated November 2, 1964, rejecting the petitioner's application for substituting the security of Chartered Bank, New Delhi.

J. S. ARORA, ADVOCATE, FOR H. L. ANAND, ADVOCATE, FOR THE PETITIONER.

S. L. WATTAL, AND P. S. SAFEER, ADVOCATES, FOR THE RESPONDENT.

JUDGMENT

KAPUR, J.—This order will dispose of Criminal Revision Applications Nos. 157-D of 1965 and 159-D of 1965. By the impugned order dated 8th February, 1965 the learned Additional Sessions Judge, Delhi, dismissed the revision petitions of the petitioners against the order of the Additional District Magistrate dated 2nd November, 1964. On 11th August, 1964 the Customs authorities arrested the petitioners under section 135 of the Customs Act, 1962. Both the petitioners were produced before the Additional District Magistrate who admitted them to bail in the sum of Rs. 10,000 with one surety in the like amount. Both the petitioners furnished sureties and were released on bail. On 28th October, 1964 the petitioners filed an application requesting that the original surety bonds be substituted by bonds to be furnished by the chartered bank. The learned Additional District Magistrate came to the conclusion that only a natural person could execute a bond as surety and therefore, the petitioner's application could not be allowed. This order was upheld by the Additional Sessions Judge.

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The learned counsel for the petitioners submits that a legal person is as much competent to execute a surety bond as a natural person and, therefore the order of the two Courts below is erroneous. He draws my attention to the definition of the word 'person' in section 11 of the Indian Penal Code, which is in the following terms:—

“The word 'person' includes any Company or Association, or body of persons, whether incorporated or not.”

He then refers to section 4, sub-section (2) of the Criminal Procedure Code which *inter alia* provides that “all words and expressions used herein and defined in the Indian Penal Code (Act XLV of 1860) and not hereinbefore defined shall be deemed to have the meanings respectively

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attributed to them by that Code." My attention has then been invited to sections 499, 513 and 514 of the Criminal Procedure Code to show that there is no bar in the Code against an artificial person executing a bond as surety. It is argued that the definition of the word 'Person' in the Indian Penal Code has been incorporated in the Criminal Procedure Code by virtue of section 4(2) and the words "unless a different intention appears from the subject or context" in section 4(1) do not control the definition given in the Indian Penal Code as incorporated in the Criminal Procedure Code. Consequently, the argument proceeds that wherever the word 'person' occurs in the Criminal Procedure Code it must be given a meaning as contained in section 11 of the Indian Penal Code. There are two answers to this contention:—

- (1) It is not correct to suggest that the words "unless a different intention appears from the subject or context" in section 4(1) do not control the definitions incorporated in the Criminal Procedure Code by virtue of section 4(2) thereof. It is difficult to accept that the Legislature intended that all the words defined in section 4(1) should be given that meaning unless a different intention appears while the meaning of the words defined in the Indian Penal Code and incorporated in the Criminal Procedure Code by virtue of section 4(2) should not be subjected to variation even if a different intention appears from the subject or context. In the setting sub-section (2) must be read as a continuation of sub-section (1) as if all the words defined in the Indian Penal Code had been bodily lifted therefrom and incorporated as part of sub-section (1) after clause (w). When so read those words must be susceptible to variation depending on the subject or context; and
- (2) None of the sections, that is, section 499 or sections 513 to 516 of the Criminal Procedure Code provides that a surety bond may be executed by a person. Under section 499 a bond is required to be executed "by one or more sufficient sureties". The section does not say that the bond is to be executed by a person.

It is then contended that the word "sureties" in section 499 must be construed to mean natural as well as artificial

persons. The argument is that as a general rule both artificial and natural persons are entitled alike to do an act or a thing unless the statute expressly or by necessary implication requires it to be done by a natural person. The learned counsel draws my attention to section 513 of the Criminal Procedure Code and points out that the intention of the Legislature as manifested therein is that a person may deposit the amount instead of executing a bond and consequently there would be no justification for holding that a surety required to execute a bond must only be a natural person. The learned counsel further submits that no doubt sub-section (4) of section 514 provides for imprisonment of a surety but that sub-section must be limited to cases where the surety is a natural person but it cannot be used to restrict the language of section 499 so as to permit only natural persons to execute bonds as sureties. Moreover, according to the learned counsel, the intention of the Legislature is clear from the fact that a surety is to be imprisoned only if the penalty, as mentioned in sub-section (4) of section 514, is not paid. He also seeks to supplement his argument by an illustration that in case of an accused person a bond has to be executed by him under section 499. In case where a Corporation is being prosecuted, section 499 will require an execution of a bond by such Corporation. In such a case the bond may be forfeited under section 514 and penalty imposed but yet the whole of sub-section (4) of section 514 cannot be brought into play since a Corporation is incapable of imprisonment. From this illustration the learned counsel wants me to imply that sub-section (4) is limited only to cases of bonds by natural persons.

The learned counsel for the respondents, on the other hand, contend that the whole object of taking a bond from the surety is that the surety should be able to procure the attendance of the accused as and when required and a Corporation can never fulfil such obligations.

I have carefully considered the rival contentions and am of the opinion that surety-bonds cannot be executed by artificial persons. Under section 513 of the Criminal Procedure Code the Court has been empowered to permit an accused person to deposit a sum of money or Government promissory notes to such amount in lieu of executing such bond as the Court may fix. Such concession has not been

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extended by the said provision to the sureties. The words "permit him to deposit a sum of money . . ." go with the words "..... any person is required by any Court or officer to execute a bond". The use of the word 'him' clearly shows that the concession is available only to a person who is required to execute a bond with or without sureties. It follows that the said concession is not available to the sureties.

Coming now to the illustration given by the learned counsel for the petitioners regarding the accused person being a Corporation, I am of the opinion that a Corporation can never be called upon to execute a bond as an accused person under section 499. Section 499 requires a bond to be executed by a person released on bail or released on his own bond. Since a Corporation can never be arrested, the question of execution of a bond cannot arise. Consequently, there can never be an occasion of forfeiture of a bond executed by a Corporation as an accused. The whole object of execution of bonds by the sureties is to secure the presence of a person facing trial. Responsibility is cast on the sureties to see that such a person does not escape. In accepting or rejecting a surety, the Court has to see that the sureties are persons of sufficient financial ability and of sufficient vigilance to secure the appearance and prevent the absconding of the accused. It is not possible for me to accept that the obligation of vigilance can be effectively cast on a Corporation. In case it is held that artificial persons not liable to imprisonment under section 514(4) can be permitted to execute surety-bonds, any wealthy person may deposit the amount with a company, make that company sign a surety-bond and then jump bail. That could not have been the intention of the Legislature. Perusal of section 514 shows that the sureties must be such persons as can in all cases be imprisoned in case of default. It must, therefore, be held that the learned Additional Sessions Judge was right in excluding artificial persons from the purview of the relevant provisions.

The learned counsel for the State has also taken an objection that by reason of section 502 of the Criminal Procedure Code only the sureties could apply to the Magistrate to discharge the bond executed by them. The accused persons were, according to the learned counsel, not

competent to make the said application. In view of my decision on the merits I need not decide this question.

A further objection has been taken on behalf of the respondents that the present revision is barred by time. In the circumstances, it is not necessary to deal with the objection as to limitation, particularly because it appears to be a fit case for condonation of delay even if any.

In the result, the revision petitions fail and are dismissed.

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