

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

CRL.A.No.519 of 2007

AGAINST THE ORDER IN CRL.M.C. 3820/2006 IN SC 346/2006 of
III ADDITIONAL SESSIONS COURT (ADHOC), FAST TRACK COURT-I,
THRISSUR DATED 16.01.2007

APPELLANTS/ACCUSED:

1. SHANMUGHAN, S/O.MADATHIL KARAPPAN,
CHAZHOOR VILLAGE & DESOM, THRISSUR DT.
2. SASIDHARAN,S/O.URATHETHUPARAMBIL KUNCHU,
CHAZHOOR VILLAGE & DESOM, THRISSUR DT.

BY ADVS.SRI.K.B.MOHANDAS
SRI.K.A.SREEJITH
SRI. T. G. LELLU LAL.

RESPONDENT/STATE AND COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY SMT. S. HYMA, PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
21-12-2015 ALONG WITH CRA.522/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.BHAVADASAN, J.

Crl. Appeal Nos.519 & 522 OF 2007

Dated this the 21st day of December, 2015.

J U D G M E N T

These appeals arise out of the proceedings under Section 446 of the Code of Criminal Procedure.

2. The appellants stood as sureties for the respective accused in S.C.No.346/2006 on the file of III Additional Sessions Court (Adhoc) Fast Track-I, Thrissur. Since the accused for whom they stood as sureties had absconded, the bond was forfeited and proceedings were initiated under Section 446 of the Code of Criminal Procedure. On failure to show cause in each of the case, following order was passed.

“In the result, the respondents 1 and 2 are ordered to pay the penalty of Rs.5000/- each and where the penalty is not paid and cannot be recovered from the respondents, they shall be liable to imprisonment in Civil Jail for a term of 15 days each. Issue warrant to levy the penalty in Form No.43 shown in the second schedule to CrI.P.C....”

3. Learned counsel appearing for the appellants points out that later on the accused had entered appearance and were released on bail and finally, the case itself was withdrawn by the State. In the light of these facts, it is pointed out that imposition of penalty is unjustifiable and cannot stand scrutiny.

4. Even though the bond is automatically forfeited and the sureties make themselves liable for the penalty, in the light of the subsequent events namely, appearance of accused and releasing on bail and also the withdrawal of case by the State, it is felt that imposition of penalty may not be justifiable in the present circumstance.

For the above reasons, these appeals are allowed and the proceedings under Section 446 Cr.P.C against the appellants shall stand dropped.

Sd/-

P.BHAVADASAN
JUDGE

smp

// True Copy //

P.A to Judge.