

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

CRL.A.No. 188 of 2010 ()

**AGAINST THE ORDER/JUDGMENT IN M.C. 38/2008 IN SC 344/2004 OF ADDITIONAL
SESSIONS COURT (ADHOC-II)KASARAGOD DATED 14-01-2009**

APPELLANTS/RESPONDENTS 1 & 2:

**1. VENU.P.V,AGED 39 YEARS,
S/O.NARAYANAN.P.V, IDAYIL VEEDU, KOKKAD
KATTIPOYIL.P.O, KINANUR KARINDHALAM VILLAGE.**

**2. PRAGHAVAN,AGED 60 YEARS,
S/O.AMBU, POTILLAKARAN RAGHAVAN VEEDU
PILICODE POST AND VILLAGE, HOSDURG.**

**BY ADVS.SMT.P.K.PRIYA
SRI.K.V.SREE VINAYAKAN**

RESPONDENT/RESPONDENT:

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

BY PUBLIC PROSECUTOR SRI. GITHESH R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 20-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG/

K. ABRAHAM MATHEW, J.

Crl.A. No.188 of 2010

Dated this the 20th day of March, 2015

J U D G M E N T

The appellants were the sureties of the accused in Sessions Case No.344/2004 on the file of the Additional Sessions Judge (Ad-Hoc-II), Kasaragod. On the failure of the accused to appear in court the learned Judge recorded forfeiture of the bond and issued notice to the appellants under Section 446 Cr.P.C. and proceedings were initiated against them in M.C.No.38/2008. As they failed to pay the bond amount or to show cause why they should not be ordered to pay the penalty the learned Sessions Judge by the impugned order directed them to pay the bond of Rs.10,000/- each. The legality of the order is challenged.

2. Heard the learned counsel for the appellants and the learned Public Prosecutor.

3. It is not in doubt that the appellants did not offer any explanation. It is submitted that the accused later surrendered before the court. I do not find any illegality or

irregularity in the order passed by the learned Sessions Judge.

4. The learned counsel submits that on the facts of the case the penalty may be reduced. I am inclined to take a lenient view. They will be ordered to pay as penalty Rs.5,000/- (Rupees five thousand only) each.

In the result, this appeal is allowed in part. The amount the appellants have been ordered to pay as penalty is reduced to Rs.5,000/- (Rupees five thousand only) each. The balance amount is remitted. They have already deposited the amount in the trial court. The learned Sessions Judge may pass appropriate orders in respect of the autorickshaw seized and later released on bond.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/