

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

CRL.A.No. 148 of 2015

(AGAINST THE ORDER DTD.30.5.2009 IN M.C.NO.6/2009 IN S.C.No.171/05 ON THE FILE
OF THE ADDL.SESIONS JUDGE (ADHOC)-II, KOTTAYAM)

APPELLANT/CR. PETITIONER:-:

MUHAMMED, AGED 61 YEARS,
S/O.KHADER, PUTHEN VEEDU, PANAVALLY
CHERTHALA - 688 526 (NOW AT PALLURUTHY - 06).

BY ADV. SRI.M.R.JAYAPRASAD

RESPONDENT/PETITIONER:-:

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

BY PUBLIC PROSECUTOR SMT.REMA.R

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 19-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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K.ABRAHAM MATHEW J.

Crl.A.No.148 OF 2015

Dated this the 19th day of February, 2015

JUDGMENT

The appellant was a surety for the accused in S.C.171/2005 on the file of the Additional Sessions Judge (Ad hoc-II) Kottayam. As the accused absconded proceedings were initiated against the appellant and notice was served on him under Section 446 Cr.P.C. He did not appear and show cause why the bond amount of Rs.50,000/- shall not be realised from him. So the learned Sessions Judge passed the impugned order directing him to pay the penalty of Rs.50,000/-. The order is said to be illegal.

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

3. The grounds urged in the appeal memorandum that the appellant is a cancer patient and he did not try "to escape from the liability" do not merit consideration. The other ground is that notice should not have been affixed at the appellant's residence as no one was residing there. Notice was affixed at the address given by the appellant in his bail bond. There is no room for complaint. Thus there is no illegality or irregularity in

the order passed by the lower court.

4. Learned counsel submits that the appellant is a cancer patient aged 61 years and some leniency may be shown. The bond amount was Rs.50,000/-. In the absence of any explanation on the part of the appellant the Additional Sessions Judge directed him to pay the bond amount as penalty. Having regard to the facts of the case the penalty will be reduced to Rs.25,000/-.

In the result, this appeal is allowed in part. The penalty imposed on the appellant is reduced to Rs.25,000/-(Rupees Twenty five thousand only). He is given one month's time to pay the amount, failing which coercive steps shall be taken against him.

Sd/-
K.ABRAHAM MATHEW,
JUDGE

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/True copy/

P.S.to Judge