

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

CRL.A.No. 154 of 2015 ()

**AGAINST THE ORDER DATED 24.09.2014 IN M.C.NO.49/2014 IN SESSIONS CASE
NO.863/2011 OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE-VII,
THIRUVANANTHAPURAM**

APPELLANTS/COUNTER PETITIONERS/SURETIES :

- 1. MANIKANTAN
S/O. KUTTAPPAN, VADAKKE THAITHOTTAM VEEDU, THOZHUKAL
PERUMPAZHUTHOOR, NEYYATTINKARA.**
- 2. PRAVEENA KUMARI
W/O. MANIYAN, VADAKKE THAITHOTTAM VEEDU, THOZHUKAL
PERUMPAZHUTHOOR, NEYYATTINKARA.**

BY ADV. SRI.RAJESH P.NAIR

RESPONDENT/PETITIONER :

**THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT. REMA R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

CRL.A.No. 154 of 2015 ()

APPENDIX

APPELLANTS' ANNEXURE:

P1. COPY OF THE INTERIM ORDER DATED 12.2.2015 IN CRL.APEAL NO.154/2015.

RESPONDENT'S ANNEXURE:

NIL

//TRUE COPY//

P.A. TO JUDGE

shg/

K. ABRAHAM MATHEW, J.

Crl.A.No.154 of 2015

Dated this the 10th day of April, 2015

J U D G M E N T

The appellants were the sureties of the accused in Sessions Case No.863/2011 on the file of the learned Additional Sessions Judge-VII, Thiruvananthapuram. On the failure of the accused to appear before the court the learned Sessions Judge recorded forfeiture of the bond and initiated steps against the appellants under Section 446 Cr.P.C. They failed to appear and show cause why they should not be ordered to pay the penalty. So the learned Sessions Judge imposed the bond amount of Rs.25,000/- as penalty. This is challenged.

2. Heard.

3. There is no dispute that the accused failed to appear before the trial court. There was no illegality in the initiation of the proceedings under Section 446 Cr.P.C. In response to the notice issued to them they failed to appear

and show cause why they should not be ordered to pay the penalty. It is urged in the appeal memorandum that they were not given an opportunity to show cause. They have no case that they were not served with notice. I do not find any illegality or irregularity in the impugned order.

4. The bond amount was Rs.25,000/-. Having regard to the nature of the case, I am inclined to reduce the penalty to Rs.15,000/- (Rupees fifteen thousand).

In the result, this appeal is allowed in part. The amount the appellants have been ordered to pay as penalty is reduced to Rs.15,000/- (Rupees fifteen thousand only) each. The balance amount is remitted. They will be given credit to the amount they have deposited in the trial court.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/