

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

CRL.A.No. 312 of 2015 ()

**AGAINST THE ORDER IN MC 2/105 IN SC 440/2014 OF ADDITIONAL SESSIONS
JUDGE, PALAKKAD DIVISION AT OTTAPALAM DATED 02-02-2015**

APPELLANTS/RESPONDENT NOS.1 & 2:-:

**1. SHEEJA,
W/O.KRISHNADAS, CHERAMBATTAPADI HOUSE, AMBALAPPARA
OTTAPALAM, PALAKKAD.**

**2. MOHANAN,
S/O.CHEMBANKUNDIL CHUKKRAN, PARUTHIPARAMBIL HOUSE
AMBALAPPARA, OTTAPALAM, PALAKKAD.**

**BY ADVS.SRI.JACOB SEBASTIAN
SMT.SHAMSEERA. C.ASHRAF
SRI.T.U.SUJITH KUMAR
SMT.ANU JACOB**

RESPONDENT/STATE/COMPLAINANT:-:

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

BY PUBLIC PROSECUTOR SRI. GITHESH R.

**THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 25-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

K. ABRAHAM MATHEW, J.

Crl.A.No.312 of 2015

Dated this the 25th day of March, 2015

J U D G M E N T

The appellants were sureties of the accused in Sessions Case No.440/2014 on the file of the Additional Sessions Judge, Palakkad. The accusation is that the accused committed the offence under Section 302 IPC. On the failure of the accused to appear before the trial court it recorded forfeiture of the surety bonds and registered M.C.No.2/2015 against the appellants under Section 446 Cr.P.C. It is seen from the impugned order that they submitted before the trial court that the accused was laid up somewhere in Tamil Nadu. The learned Judge took the view that the explanation is not satisfactory and directed the appellants to pay the bond amount of Rs.25,000/- as penalty. Legality of the order is challenged in this appeal.

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

3. It is seen that even though the court was not

bound to grant time to the appellants to 'produce' the accused, the trial court granted their prayer. They could not even disclose the whereabouts of the accused. It was then only the learned Sessions Judge recorded forfeiture of the bonds. I am fully satisfied that the order passed by the learned Sessions Judge is legal.

4. The learned counsel submitted that the appellants are poor and some leniency may be shown. I think the penalty may be reduced to Rs.20,000/- (Rupees twenty thousand only).

In the result, this appeal is allowed in part. The amount the appellants have been ordered to pay as penalty is reduced to Rs.20,000/- (Rupees twenty thousand only) each. The balance is remitted. If they do not pay the amount within two weeks from today, the trial court shall take steps for its realisation.

Sd/-

K. ABRAHAM MATHEW
JUDGE

//True copy//
P.A. TO JUDGE

shg/