

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

CRL.A.No. 518 of 2015 ()

(AGAINST THE ORDER DATED 4.5.2015 IN M.C.NO.12/2015 IN S.C.NO.688 OF 2013 ON THE FILES OF THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE-V, KOLLAM)

APPELLANTS/COUNTER PETITIONERS/SURETIES:

1. FATHIMA BEEVI, AGED 50 YEARS
D/O.AYIZHA BEEVI, KAZHICHIKAM VEEDU,THEKKUM BHAGAM MURI,
KOTTAPPURAM VILLAGE, KOLLAM TALUK, PIN-691 319.
2. VIJAYAN, AGED 52 YEARS, S/O.KUNJAN,
ATHIRA MANDIRAM, KAPPIL MURI, EDAVA VILLAGE,
VARKALA TALUK,PIN-695311.

BY ADVS. SRI.C.R.VIJAYAKUMARAN PILLAI
SRI.A.CHANDRA BABU
SRI.R.SANTHOSH (VARKALA)
SMT.S.V.HARITHA

RESPONDENT/COMPLAINANT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF
POLICE, PARAVOOR POLICE STTION THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CRL.A.No. 518 of 2015

APPENDIX

APPELLANTS' EXHIBITS:

ANNEXURE A: SHOW CAUSE NOTICE DATED 28.01.2015 TO 1ST APPELLANT.

ANNEXURE B: SHOW CAUSE NOTICE IN M.C.12/2015 DATED 17.03.2015 TO 1ST APPELLANT.

ANNEXURE C: SHOW CAUSE NOTICE IN M.C.12/2015 DATED 17.03.2015 TO 2ND APPELLANT.

ANNEXURE D: ORDER IN M.C.NO.12/2015 DATED 4.5.2015.

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P.S. TO JUDGE

C.T.RAVIKUMAR, J.

Criminal Appeal No.518 of 2015

Dated 9th June, 2015

JUDGMENT

This appeal is directed against the order dated 4.5.2015 in M.C.No.12 of 2015 in S.C.No.688 of 2013 passed by the Court of Additional District and Sessions Judge-V, Kollam. The appellants herein stood as sureties to the accused in S.C.No.688 of 2013. The accused is facing trial for the offence punishable under Section 308, IPC. Obviously, the accused was enlarged on bail with conditions. Bail, in its fundamental concept, is a security for the appearance of the accused to answer a charge at the specified date and time. The appellants, by standing as sureties to the accused in S.C.No.688 of 2013, assured that they would produce the accused as and when his presence is required by the court. It is to be noted that the first appellant herein is the mother of the accused and the second appellant herein is his neighbour. The learned Sessions Judge specifically observed in the impugned order that in spite of coercive steps the presence of the accused could not be secured and though notice was issued to the appellants herein they could not produce the accused before the court. In such circumstances, notice was issued to

the appellants herein to appear before the court to show cause why the bond amount should not be forfeited. Though the appellants herein appeared before the court pursuant to the receipt of notice they could not assign any reasonable cause for their failure and they only prayed for taking a lenient view. There cannot be any doubt with respect to the fact that being the mother of the accused the first appellant cannot feign ignorance as to the whereabouts of the accused in the said Sessions Case. Being a surety the second accused who is a neighbour of the accused also cannot feign ignorance about the whereabouts of the accused. In the light of the bail bond executed by them definitely they were bound to produce the accused when his appearance was ordered by the court. In this case, in fact, they failed to produce him on all posting dates. Though I have heard the learned counsel for the appellants at length the learned counsel could not bring to my notice any legal infirmity in the impugned order. In fact, as per the impugned order taking note of the aforesaid circumstances and after affording them an opportunity of being heard the learned Sessions Judge forfeited the bail bond and directed the appellants herein to pay an amount of ₹ 12,500/- each. It is thus obvious that even before the court below, when they appeared in person after receipt of notice issued by the court to show cause why the bail amount should not be forfeited, they could not assign

any specific reason for their failure to produce the accused before the court for trial. Even before this Court the appellants had failed to show any reasonable cause for their failure. When that be the circumstances, this Court cannot find any illegality or infirmity in the order warranting interference. However, taking note of the fact the submission now made to the effect that subsequently the accused in the aforesaid Sessions Case appeared before the court and he is now available to be tried I am of the view that a lenient view can be taken. In the said circumstances, maintaining the order forfeiting the bond and imposition of penalty on the appellants the amount of penalty payable by each of the appellants is reduced from ₹ 12,500/- to ₹ 5,000/-.

This appeal is allowed to the above extent.

Sd/-
C.T.RAVIKUMAR
Judge

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