

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

CRL.A.No. 669 of 2015 ()

AGAINST THE ORDER IN CRL.MC 963/2015 of ADDITIONAL SESSIONS COURT -
IV, THRISSUR DATED 24-04-2015
CRIME NO. 36/2009 OF CHALAKKUDY EXCISE RANGE OFFICE , TRISSUR

APPELLANT(S)/APPELLANTS:

1. NARAYANAN, AGED 40 YEARS
S/O.KUTTAN, KANNOOPARAMBU, KONNAKUZY DESOM
PARIYARAM VILLAGE, MUKUNDAPURAM, TRICHUR DISTRICT
2. WILSON
S/O.MATHEW, KARAKKADA KONNAKUZYDESOM
PARIYARAM VILLAGE, MUKUNDAPURAM
TRICHUR DISTRICT

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.VISHNU BHUVANENDRAN

RESPONDENT(S)/RESPONDENTS:

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

BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 01-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

Crl.A. No.669 of 2015

Dated this the 1st day of July, 2015

JUDGMENT

This appeal is directed against the order in M.C. No.963/2015 in S C No.1052/2010 passed by the Court of the Additional Sessions Judge-IV Thrissur. The appellants herein stood as sureties to the sole accused in the said sessions case who was indicted for the offence punishable under section 55 (g) of the Abkari Act. By virtue of the bail bond executed by the appellants they are bound to secure his presence before the court as and when the presence of the accused was required by the court. When the accused failed to appear before the court, the court below issued notices to the appellants herein calling upon them to produce the accused or to show cause why the bail bond should not be forfeited and penalty should not be imposed. The appellants received notices from the court. However, they failed to appear before the court as also produce the accused. It was in the said circumstances that the impugned order was passed.

2. I have heard the learned counsel for the appellants as also the learned Public Prosecutor.

The appellants stood as sureties to accused in S.C.No. 1052/2010. When that be so, they are under the bounden duty to secure the presence of the accused when his presence is required by the court. In this case the court below found that the accused has been absconding and it is in the said circumstances that the notices were issued to the appellants herein calling upon them to procure the presence of the accused or to show why the bail bond should not be forfeited. There cannot be any doubt with respect to the position that being the sureties to the accused in the said sessions case they were bound to procure the presence of the accused when the court called upon them to produce the accused. Add to it, in this case even after the receipt of show cause notice the appellants failed to appear before the court. It is in the said circumstances that the court below found that their non appearance was wilful and taking note of the fact that they had failed to produce the accused, the impugned order was passed. In such circumstances, I do not find any reason to hold that the court below erred in passing the impugned order holding that the appellants herein had failed to procure the presence of the accused and thereby rendered themselves liable to face the proceedings

under section 446 of the Code of Criminal Procedure. It is with notice to them that their bail bond was forfeited and penalty was imposed. In the said circumstances, the order imposing penalty on the appellants herein is upheld. The learned counsel for the appellants submitted that the appellants are ready to secure the presence of the accused on any day. In such circumstances, the appellants are directed to produce the accused before the court on or before **27.7.2015**. Evidently, the entire bond amount was ordered to be paid as penalty. Taking into account the aforesaid circumstances I am inclined to reduce the amount of penalty and accordingly, it is reduced from 25,000/- each to 5,000/- each. This appeal is allowed to the above extent and with the aforesaid directions.

Sd/-

C.T.RAVIKUMAR,JUDGE.

dlk

