

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

CRL.A.No. 1177 of 2015

AGAINST THE ORDER DATED 22.01.2014 IN CRIMINAL M.C. NO. 56 OF 2013 IN
SESSIONS CASE NO. 13 OF 2013 ON THE FILES OF THE SESSIONS COURT,
KALPETTA, WAYANAD

APPELLANTS/SURETY NOS. 1 & 2 OF THE ACCUSED:

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- 1. SIVARAJ, AGED 55 YEARS**
S/O EERAMMA, KRIGANNOOR HOUSE, KABANIGIRI P.O.
PADICHIRA VILLAGE, SULTHAN BATHERY TALUK.
 - 2. GEORGE, AGED 54 YEARS**
S/O VARKEY, VAZHAPLAMKUDIYIL HOUSE, KABANIGIRI P.O.
PADICHIRA VILLAGE, SULTHANBATHERY TALUK.

BY ADV. SRI.MATHEW KURIAKOSE

RESPONDENT/STATE:

STATE OF KERALA
(CRIME NO.5/2012 OF PULPALLY POLICE STATION)
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

DCS

P. UBAID, J.

Crl. Appeal No. 1177 of 2015

Dated this the 30th day of November, 2015

JUDGMENT

The appellants herein are the sureties of the accused in S.C. No. 13/2013 of the Court of Session, Wayanad. When the accused failed to appear, the learned Sessions Judge initiated proceedings against them under Section 446 of the Code of Criminal Procedure in Crl. M.C. No. 56 of 2013. On forfeiture of the bond executed by the appellants for Rs. 20,000/- each the learned Sessions Judge issued show cause notice to the sureties. In spite of notice, they did not make appearance or explain their failure to produce the accused. In such a circumstance, by order dated 22.01.2014, the learned Session Judge imposed 50% of the bond amount as penalty. Aggrieved by the said order dated 22.01.2014, the sureties have come up in appeal under Section 449 Cr.P.C.

2. On hearing both sides and on a perusal of the impugned order, I find no reason for interference on the ground of any illegality or irregularity in the order of the court below, or in the procedure adopted by the court below. Due show cause notice

was given on forfeiture of bond, and the learned trial Judge imposed penalty when the sureties failed to appear in court or to show cause against imposition of penalty. The impugned order is quite right. However, in the particular circumstances, where it is submitted that the accused was later produced by the sureties in court on 27.01.2014, I feel it appropriate to reduce the amount of penalty. It is also submitted that the accused has married the victim, and they are now leading a very happy matrimony. I feel that Rs. 2,000/- each will be the adequate amount of penalty, and the balance can be remitted under law.

3. In the result, this appeal is allowed in part, to the very limited extent of modifying the impugned order of the court below, that the amount of penalty payable by the appellants shall be Rs. 2,000/- each, and the balance will stand remitted under the law.

P. UBAID, JUDGE

DCS