

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

CRL.A.No. 621 of 2013 ()

M.C.NO.134/2010 IN S.C.1325/2005 OF ADDITIONAL DISTRICT & SESSIONS
(ADHOC)-II, KOLLAM DATED 02.11.2010

APPELLANT/COUNTER PETITIONER 1:

CHANDRA PRASAD, S/O.PURUSHOTHAMAN, CHIRAKKARAPUTHEN VEEDU
PULIYILA CHERRY, PALLIMON VILLAGE, KOLLAM.

BY ADV. SRI.SAJJU.S

RESPONDENT/PETITIONER:

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

BY PUBLIC PROSECUTOR: SRI ABHIJITH LESLIE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 08-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SUNIL THOMAS, J.

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Crl.A.No.621 of 2013

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Dated this the 8th day of December, 2015

JUDGMENT

The appellant is the accused, who is the first counter petitioner in the MC proceedings in S.C.No.1325 of 2005 for the offences punishable under Section 8(1) and (2) of the Abkari Act. He faced the trial and ultimately convicted. The appeal was preferred in this Court and the Court by an order dated 07.07.2008 suspended the sentence on certain conditions including execution of a new bond. However, he absconded and thereafter, MC proceedings were initiated on the basis of the earlier bond executed. The appellant did not appear and hence, the trial court by order dated 02.11.2010 imposed a penalty of Rs.25,000/-. No remission was granted. This is under challenge in this appeal.

2. Heard both sides and examined the records. It is an admitted fact that the appellant was granted bail originally on execution of a bond, inter alia, undertaking that he will be present in Court on all posting dates and in case of default, he and his

sureties will suffer a penalty subject to the maximum of Rs.25,000/-. It is also an admitted fact that he did not execute a fresh bond as directed by this Court. Learned counsel for the appellant invited my attention to Annexure-A1 which indicates that subsequent to the arrest of the accused, he underwent the sentence and was ultimately released from jail on 31.03.2012. In the above circumstances, the object of the impugned order thereafter remains only academic. Learned counsel submitted that accused is involved in yet another case and pleaded that a lenient view to be taken.

3. Having regard to the fact that the purpose of initiating MC proceedings was satisfied by the detention of the accused and by actually undergoing the sentence, I feel that a very lenient view can be taken. In the circumstance, I feel that a penalty of Rs.5,000/- will serve the interest of justice.

In the result, the appeal is allowed. The impugned order is modified by imposing a penalty of Rs.5,000/- (Rupees five thousand only). He shall pay the amount within one month from today. If any amount is deposited pursuant to the orders of this Court, credit will be given to that and excess if any, will be

returned to the appellant through his counsel.

Sd/-
SUNIL THOMAS
Judge

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True Copy /

P.A to Judge