

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

CRL.A.No. 658 of 2013 ()

**AGAINST THE ORDER IN M.C.NO.5/2013 IN S.C.NO.527/2011 OF SESSIONS COURT,
PATHANAMTHITTA DATED 10.4.2013**

APPELLANTS/COUNTER PETITIONERS 1 AND 2:

- 1. ABDUL KHADER
S/O. ISMAIL, EETTIMOOTTIL
PUTHENVEETIL KUMMANNOOR MURI, IRAVON VILLAGE.
KOLLAM DISTRICT**
- 2. AISHA BEEVI
D/O. HUSSUN BEEVI, BROOSILI MANZIL, VAKAYAR MURI
VALLIKKODE, KOTTAYAM VILLAGE, KOTTAYAM DISTRICT**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN**

RESPONDENT/STATE:

**STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM 682031
(SC NO. 527/2011 ON THE FILE OF THE COURT OF SESSIONS
PATHANAMTHITTA).**

BY PUBLIC PROSECUTOR SRI. GITHESH R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

CRL.A.No. 658 of 2013 ()

APPENDIX

APPELLANTS' ANNEXURES:

**ANNEXUREE-I. COPY OF THE ORDER DATED 16.1.2011 IN SC NO.509/2001
PASSED BY THE COURT OF SESSIONS, PATHANAMTHITTA**

RESPONDENT'S ANNEXURES:

NIL

K. ABRAHAM MATHEW, J.

Crl.A. No.658 of 2013

Dated this the 10th day of March, 2015

J U D G M E N T

The appellants were sureties of the accused in Sessions Case No.527/2011 on the file of the learned Sessions Judge, Pathanamthitta. On the failure of the accused to appear in court the learned Sessions Judge recorded forfeiture of the bond and initiated steps against the appellants under Section 446 Cr.P.C. The only explanation given by them in response to the notice is that they were in financial difficulties. The learned Sessions Judge ordered them to pay the bond amount of Rs.15,000/- as penalty. This is challenged.

2. Heard.

3. There is no dispute that the accused absconded and the learned Sessions Judge was right in recording forfeiture of the bond. There is no illegality or irregularity in the order passed by the learned Sessions Judge.

4. The only request of the learned counsel is that

having regard to the fact that the appellants are poor some leniency may be shown in the matter of penalty. I am satisfied that they deserve some leniency. The penalty will be reduced to Rs.7,500/- (Rupees seven thousand five hundred) each.

In the result, this appeal is allowed in part. The amount the appellants have been ordered to pay as penalty is reduced to Rs.7,500/- (Rupees seven thousand five hundred) each. The balance is remitted. The amount they have already deposited will be credited.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/