

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

CRL.A.No. 181 of 2012 ()

AGAINST THE ORDER DATED 21.12.2011 ON THE FILE OF ADDITIONAL DISTRICT
AND SESSIONS JUDGE, FAST TRACK COURT NO.1, THRISSUR IN
CRL.M.C.2081/2011 IN S.C.NO.224/2009

APPELLANTS/RESPONENTS/SURETIES OF 5TH ACCUSED:

1. RASHEED, AGED 40 YEARS,
S/O. ABDUL KHADER, KADAVIL VEETIL, KADAPURAM
VILLAGE/DESOM, CHAVAKKAD TALUK, THRISSUR DISTRICT.

2. IBRAHIM,
S/O. MUHAMMED UNNI, PANDARIVEETIL,
KADAPURAM VILLAGE/DESOM, CHAVAKKAD TALUK
THRISSUR DISTRICT.

BY ADV. SRI.C.A. ANOOP

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

2. CIRCLE INSPECTOR OF POLICE
CHAVAKKAD.

BY PUBLIC PROSECUTOR SRI.ABHIJITH LESLIE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SUNIL THOMAS, J.

Crl. Appeal No. 181 of 2012

Dated this the 15th day of December, 2015

J U D G M E N T

Both the appellants were the sureties of the 5th accused in S.C. No.224/2009. They had offered themselves as sureties and executed a bail bond *Inter alia*, undertaking that they would procure the presence of the accused on all posting dates. It is admitted that thereafter the accused jumped on bail and did not appear. Consequently, the Sessions Court initiated M.C. proceedings as Crl.M.C 2081/2011. They appeared and sought for mercy. The Court below imposed a penalty of ₹25,000/- as agreed in the bond, without granting any remission. This is challenged in this appeal.

2. Heard both sides and examined the records.

3. It is admitted that the appellants had executed the bail bond. It is also not in dispute that the accused did not appear. However, pursuant to the receipt of notice in the Crl.M.C., both the appellants appeared before the Court and pleaded for mercy. The Court record itself shows that the 5th accused was abroad and he was absconding from the very beginning. The matter was

transferred to the Long Pending Register. This itself shows that the accused, in spite of all coercive steps taken by the Court below, remained elusive and his presence could not be procured. In the above circumstance, I feel that it cannot be expected that the appellants had not taken their earnest efforts to ensure the presence of the accused. Hence I feel that they are entitled for some lenient view. A sum of ₹15,000/- will serve the interest of justice.

In the result, the appeal is allowed in part. In modification of the impugned order it is directed that the appellants shall pay a penalty of ₹15,000/- (Rupees fifteen thousand only) each. It is submitted that the amount has already been remitted. If that be so, credit would be given to that amount. Remission is granted with respect to the remaining amount.

Sd/-

SUNIL THOMAS, JUDGE.

/true copy/

P. A. to Judge