

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

CRL.A.No. 242 of 2012 (A)

AGAINST THE ORDER/JUDGMENT IN SC 444/2009 of ADDITIONAL DISTRICT COURT
(ADHOC), THRISSUR DATED

APPELLANT/APPELLANTS:

1. NARAYANAN @ NANU
MANNARKKADU TALUK, MANNARKKADU VILLAGE
PERUMPADALY DESOM, PALAKKAD.

2. APPUKUTTY, SON OF SIVADAS,
KOTTAPPADAM VILLAGE, ARIMPAVU, PULLUTHADATHIL VEEDU
MANNARKKAD TALUK, PALAKKAD.

BY ADV. SRI.A.C.DEVY

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR:SMT M.G.LISHA

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 29-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A : TRUE PHOTOCOPY OF THE RECEIPT DATED 13.03.2012
ISSUED BY MAGISTRATE/JUDGE IN FAVOUR OF 1st PETITIONER

ANNEXURE B : TRUE PHOTOCOPY OF THE RECEIPT DATED 13/03/2012
ISSUED BY MAGISTRATE/JUDGE IN FAVOUR OF 2nd PETITIONER

RESPONDENTS' EXHIBITS: NIL

True Copy /

P.A to Judge

SUNIL THOMAS, J.

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Crl.A.No.242 of 2012

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Dated this the 29th day of October, 2015

JUDGMENT

The appellants were the sureties of the second accused in S.C.No.449 of 2009. They had offered themselves as sureties and executed a bond undertaking to ensure the presence of the accused on all posting dates and in case of default, to forfeit the bond and to pay penalty subject to the maximum of Rs.25,000/-. Thereafter, the accused jumped the bail and was not available. MC proceedings were initiated and in spite of service of notice, the sureties also remained absent. Hence the court below by the impugned order imposed a penalty of Rs.10,000/- each payable by each of the surety and granted remission for the balance amount. This is challenged in this appeal.

2. Heard both sides and examined the records.

3. Learned counsel for the appellants produced before me a copy of the order in Crl.M.C.No.1681 of 2012 which indicates that the second accused appeared before this Court apprehending arrest in S.C.No.444 of 2009 and sought bail. By order dated 08.05.2012, he was permitted to appear before the learned Sessions Judge and to move appropriate bail application. Learned counsel for the

appellants herein submitted that to his information, the second accused had since appeared before the court below.

4. Though it is not clear as to whether the second accused had surrendered or not, copy of the order produced itself indicates that the accused responded to the MC proceedings and moved this High Court. Virtually, the purpose of MC proceedings has been served to that extent. Considering this, I am inclined to take a lenient view, though, strictly the impugned order is not legally assailable. Having regard to the entire facts, I feel that Rs.6500/- payable by each of the appellant would serve the interest of justice.

In the result, the appeal is allowed in part. Impugned order is modified reducing the penalty payable by each of the surety to Rs.6500/- (Rupees six thousand and five hundred only). It is submitted that the above amount has already been remitted. If so, it will be given credit to. Remission is granted regarding the remaining amount.

Sd/-
SUNIL THOMAS
Judge

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