

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

CRL.A.No. 1819 of 2010 ()

**AGAINST THE ORDER/JUDGMENT IN M.C.NO.30/2008 IN SC 498/2004 OF ADDITIONAL
DISTRICT & SESSIONS JUDGE, FAST TRACK COURT-I, THIRUVANANTHAPURAM
DATED 27-09-2008**

APPELLANTS/1ST COUNTER PETITIONERS:

1. SUBHASH, S/O.RAMACHANDRAN (DELETED)
SUMA NIVAS, MUTTAPPALAM DESOM, AZHOOR VILLAGE.

**[APPELLANT NO.I IS DELETED FROM THE PARTY ARRAY VIDE ORDER DATED
19.3.2015 IN CRL.M.A.1537/2015]**

2. SUKUMARAN NAIR
S/O.SEKHARA PILLAI, THOPPIL VEEDU, MULLASSERY
MANGALAPURAM, VEILOOR VILLAGE

3. RAJU
S/O.LEKSHMANAN, THIRUVATHIRAKARAVILA VEEDU, KRISHNAPURAM
AZHOOR VILLAGE, CHIRAYINKEEZHU.

BY ADV. SRI.M.DINESH

RESPONDENT/PETITIONER:

**STATE OF KERALA
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. GITHESH R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SHG

K. ABRAHAM MATHEW, J.

Crl.A.No.1819 of 2010

Dated this the 25th day of March, 2015

J U D G M E N T

The appellants were the sureties of the accused in Sessions Case No.498/2004. On the failure of the accused to appear before the court the learned Sessions Judge recorded forfeiture of the bond and initiated proceedings against them in M.C.No.30/2008 under Section 446 Cr.P.C. They failed to appear and show cause why they should not pay the bond amount as penalty. So the learned Sessions Judge ordered realisation of the bond amount from them. This is challenged in this appeal.

2. Heard.

3. There is no dispute that the accused failed to appear on the date on which the case was posted and the appellants failed to appear in response to the notice issued to them under Section 446 Cr.P.C. I do not find any illegality or irregularity in the order.

4. Learned counsel submits that the accused surrendered before the court and face the trial and he was acquitted. Even though that is not a ground to discharge the appellants, I am inclined to take a lenient view. The penalty is fixed at Rs.5,000/- (Rupees five thousand only) each.

In the result, this appeal is allowed in part. The amount the appellants have been ordered to pay is reduced to Rs.5,000/- (Rupees five thousand only) each. The balance amount is remitted. They will be given credit to the amount they have already deposited. They shall deposit the balance amount within two weeks from today, failing which the lower court shall take steps to realise the amount.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/