

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

CRL.A.No. 468 of 2011 ()

AGAINST THE ORDER IN M.C.NO.4/2010 IN SC NO.458/2008 of ADDL.
DISTRICT & SESSIONS COURT (ADHOC), FAST TRACK III, PATHANAMTHITTA
DATED 22.04.2010.

APPELLANT(S)/SURETY/1ST COUNTER PETITIONER:

NADARAJAN, S/O.KESAVAN,
RESIDING AT CHANDRAVILASOM VEEDU,
PERUNAD MURI & VILLAGE,
RANNI TALUK, PATHANAMTHITTA.

BY ADVS.SRI.V.SETHUNATH
SRI.PRAKASH KESAVAN

RESPONDENT(S)/COMPLAINANT/STATE:

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

BY PUBLIC PROSECUTOR SRI.ABHIJITH LESLIE.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Pn

SUNIL THOMAS, J.

Crl. Appeal No. 468 of 2011

Dated this the 2nd day of December, 2015

J U D G M E N T

The appellant herein was the surety of the 1st accused in S.C. No.458/2008 of the Additional District & Sessions Judge, (Adhoc), Fast Track-III, Pathanamthitta. He was released on bail on executing a bond, along with two sureties, undertaking to ensure the presence of the accused on all posting dates and in case of default, to pay a penalty subject to ₹75,000/-. It appears that, the 1st accused remained absent and thereafter M.C. proceedings were initiated against them. The counter petitioners did not appear and hence the Court below proceeded to impose a penalty of ₹50,000/- each granting a remission of ₹25,000/-. This is under challenge in this appeal.

2. It seems that the court below was legally justified in taking a view that since the appellant herein did not procure the presence of the accused nor showed any cause to the notice served on them, they are liable to pay penalty. However, the learned counsel for the appellant invited my attention to the order in Crl. Appeal No.122/2012, wherein an appeal filed by the other

surety was considered by this Court and having regard to the peculiar circumstances of the case, reduced the penalty to a sum of ₹30,000/-. I feel that the appellant herein is also entitled for the same consideration. Having regard to the entire circumstances, I feel that the appeal is liable to be allowed in part, reducing the penalty imposed by the Court below to a sum of ₹30,000/- payable by the appellant.

In the result, the appeal is allowed in part. The impugned order is modified by reducing the penalty to ₹30,000/- (Rupees thirty thousand only). In case any amount has been remitted pursuant to the orders of this Court, that would be given credit to. Remission is granted regarding the balance amount.

Sd/-

SUNIL THOMAS, JUDGE.

/true copy/

P. A. to Judge

Pn