

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

CRL.A.No. 493 of 2011 ()

AGAINST THE ORDER IN CRL.M.C.25/10 IN SC 271/2007 of ADDITIONAL
DISTRICT & SESSIONS COURT (ADHOC)-I, PATHANAMTHITTA DATED 17.04.2010

APPELLANT/RESPONDENT:

CPI VALSALA, AGED 43 YEARS,
W/O. RAMACHANDRAN, REMYA BHAVANAM, ULANADU
KULANADA, PATHANAMTHITTA.

BY ADV. SRI.P.K.MOHAMED JAMEEL

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR: SRI.ABHIJITH LESLIE

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 08-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SUNIL THOMAS, J.

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Crl.A.No.493 of 2011
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Dated this the 8th day of December, 2015

JUDGMENT

The appellant was one of the sureties of the accused in S.C.No.271 of 2007. The appellant and the other surety offered themselves as sureties to the accused and got the accused released on executing a bond, inter alia, undertaking to procure the presence of the accused on all posting dates and in case of default, to forfeit the penalty imposed by the Court subject to the maximum of Rs.10,000/-. It is an admitted fact that the accused remained absent and MC proceedings were initiated against the sureties. Pursuant to the notice, the other surety appeared and the proceedings were dropped. The appellant herein did not appear and hence, the learned Sessions Judge by order dated 17.04.2010 imposed a penalty of Rs.10,000/- without granting any remission. This is under challenge in this appeal.

2. Heard both sides and examined the records.

3. Learned counsel for the appellant, relying on the grounds mentioned in the appeal memorandum, submitted that though the appellant remained absent, she was effectively

represented through the counsel. It was further pointed out that the accused had since appeared and faced the trial. It appears from the records that Crl.A.No.2025 of 2010 was filed by the accused, which is pending. Having regard to the fact that the appellant herein is a woman, and that the MC proceedings were initiated in the year 2010 and pending since then, I feel that a lenient view is liable to be taken. This is all the more so, since the purpose of initiating MC proceedings stood accomplished by the appearance of the accused before the court below. Hence, I am inclined to modify the order.

In the result, the appeal is allowed in part. The impugned order stands modified by imposing a penalty of Rs.3,000/- (Rupees three thousand only) on the appellant herein. Remission is granted regarding the remaining amount. If any amount is already remitted pursuant to the orders of this Court, credit would be given to that amount.

Sd/-
SUNIL THOMAS
Judge

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True Copy /

P.A to Judge