

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

CRL.A.No. 507 of 2011 ()

AGAINST THE ORDER IN M.C.10/2010 IN SC 918/2008 of ADDL.DISTRICT &
SESSIONS COURT (ADHOC), MAVELIKKARA DATED 24-02-2011

APPELLANTS/PETITIONERS/SURITIES 1 & 2:

1. REMLATH D/o. SEIMA, KALLUVETTUM PARAMBIL
VETTIYAR MURI, VETTIYAR VILLAGE.

2. SALMATH, W/O. AMANULLA, PULINTHANATH
VADAKKATHIL, VETTIYAR MURI, VETTIYAR VILLAGE.

BY ADVS. SRI. RENJITH B. MARAR
SMT. RESHMI JACOB
SMT. B. DEEPALAKSHMI

RESPONDENT/PETITIONER:

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

BY PUBLIC PROSECUTOR: SMT M G LISHA

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SUNIL THOMAS, J.

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Crl.A.No.507 of 2011
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Dated this the 6th day of November, 2015

JUDGMENT

The appellants were the sureties of the accused in S.C.No.918 of 2008 of the Additional District and Sessions Court, Fast Track (Adhoc), Mavelikkara for offence punishable under Section 302 of the Indian Penal Code. They had executed a bond for a sum of Rs.50,000/- each inter alia 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 amount of Rs.50,000/-. Thereafter, accused remained absent and MC proceedings were initiated against the sureties. They appeared before the Court and expressed their inability to procure the presence of the accused, since he was reported to be absconding. Court below, thereafter by the impugned order took a lenient view and imposed a penalty of Rs.25,000/- each payable by each of the appellant. This is assailed in this appeal.

2. Heard and examined the records.

3. When the matter was taken up for hearing, learned counsel for the appellants submitted that the accused had

thereafter appeared before the court below, faced the trial and stood convicted by judgment dated 13.01.2015. It was further submitted that Crl.A.No.61 of 2015 has been preferred and is now pending. On verification of the records, it is seen that such an appeal has been preferred by the accused therein. Evidently, accused has appeared before the court below and faced the trial. Virtually, the purpose of executing bond has hence been satisfied. The court below while imposing a penalty of Rs.25,000/- each has also taken into consideration that both the sureties were females. One is stated to be a widow and the husband of other surety was stated to be disabled. It is submitted that the first appellant is the mother of the accused and second appellant is the sister of the first appellant. It is further stated that they had to incur huge expenses for defending the case and is in a difficult financial situation. Learned counsel pleaded for a lenient view and that sufficient time may be granted for payment of penalty.

4. Having regard to the entire facts including that the accused has appeared before the court below, faced trial and suffered a conviction, I feel that a further lenient view can be taken in favour of the appellants. A sum of Rs.7500/- each payable

by each of the appellant will serve the interest of justice.

In the result, the appeal is allowed in part. The impugned order imposing a penalty of Rs.25,000/- is modified and each of the appellant is directed to pay of sum of Rs.7500/- (Rupees Seven Thousand Five Hundred only) as penalty. They are granted 45 days time for remitting the above amount. The recovery proceedings shall be deferred for 45 days from today and if the amount remain unpaid, court below shall initiate appropriate proceedings for the recovery of the amount due.

Sd/-
SUNIL THOMAS
Judge

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