

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

CRL.A.No. 976 of 2011 ()

**AGAINST THE ORDER IN M.C.36/2011 IN SC 1472/2009 OF ADDITIONAL DISTRICT &
SESSIONS COURT (ADHOC)-II, KOLLAM DATED 12.04.2011**

APPELLANT/3RD C.P. IN M.C.:

**SANTHOSH KUMAR, SANTHOSH BHAVAN,
EDAKKADU MURI, PORUVAZHI VILLAGE, KOLLAM.**

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS/COMPLAINANT/1ST C.P. IN M.C/2ND C.P. IN M.C.:

- 1. STATE OF KERALA, REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. BINU, S/O.VIJAYAN, NADEELAZHIKATHU VVEDU
EDAKKADU MURI, PORUVAZHI VILLAGE
KOLLAM-690 520.**
- 3. VIJAYAN, NADUVILA KIZHAKKATHIL VEEDU,
EDAKADU MURI, PORUVAZHY VILLAGE, KOLLAM-690 520.**

R1 BY PUBLIC PROSECUTOR SMT. REMA R.

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 05-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

shg/

K. ABRAHAM MATHEW, J.

Crl.A.No.976 of 2011

Dated this the 5th day of March, 2015

J U D G M E N T

The appellant was one of the sureties for the accused in Sessions Case No.1472/2009 on the file of the Additional Sessions Judge (Adhoc-II),Kollam. On the failure of the accused to appear before the court the learned Judge recorded forfeiture of the bond. The appellant did not appear in response to the notice issued to him to show cause why he should not be ordered to pay the bond amount of Rs.25,000/- as penalty. The learned Judge ordered him to pay a penalty of Rs.10,000/-. This order is challenged.

2. The grounds urged in the appeal memorandum are (1) there was no willful breach of condition by the appellant, (2) the appellant was unaware of the fact that the accused left India and (3) the failure of the appellant to appear in response to the notice issued to him was not deliberate. None of the above grounds are valid. There is no question of any breach being committed by a surety. It

is the accused who committed breach by absconding. The question whether the appellant was aware of the fact that the accused has absconding is not at all relevant. The reason for the nonappearance of the appellant also is beyond the scope of the enquiry. I do not find any merit in this appeal.

In the result, this appeal is dismissed.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/