

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. 2223 of 2011 ()

**AGAINST THE ORDER/JUDGMENT IN M.C.8/2011 IN SC 440/2009 OF ADDITIONAL
ASSISTANT SESSIONS COURT,KOLLAM DATED 22-07-2011**

APPELLANTS/COUNTER PETITIONERS:

1. HAJARUMMA W/O. ABDUL KARIM
PUTHENVILA VADAKKETHIL, KOTRAMKARA
CHANDANATHOPE, KOLLAM
2. SHEEBA, PUTHENVILA VADAKKETHIL, KOTTAMKARA,
CHANDANATHOPPE, KOLLAM

BY ADV. SRI.DILEEP P.PILLAI

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM -31**

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.2223 of 2011

Dated this the 5th day of March, 2015

J U D G M E N T

The appellants were the sureties of the accused in Sessions Case No.440/2009 on the file of the learned Additional Assistant Sessions Judge, Kollam. On the failure of the accused to appear in court it recorded forfeiture of the bond and initiated proceedings against the appellants. Though notice was served on them, they failed to respond. The court ordered them to pay penalty of Rs.20,000/- each and the balance was remitted. This order is challenged in this appeal.

2. The grounds alleged in the appeal memorandum are (1) there was no willful negligence or laches on the part of the appellants, (2) the accused has already appeared before the court and (3) the appellants were not given sufficient time.

3. Forfeiture of the bond automatically takes place when the accused fails to appear in court. The court only

records it. Negligence or laches on the part of the sureties is not at all relevant. Subsequent appearance of the accused before the court does not affect the liability of the appellants. There is no law which requires that the sureties should be given opportunity and time to produce the accused. So the grounds urged in the appeal memorandum are not at all valid. There is nothing wrong in the order passed by the learned Additional Assistant Sessions Judge.

In the result, this appeal is dismissed.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/