

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

Crl.Rev.Pet.No. 738 of 2005 ()

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IN CRA 480/2004 of II ADDL.DISTRICT COURT, ERNAKULAM
IN CC 81/1997 of J.M.F.C.-II, ALUVA
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**REVISION PETITIONER(S)/APPELLANTS IN CRL.A.NO.480/2004/COUNTER
PETITIONERS IN M.C.NO.22/2004.:**

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- 1. YACOB, AGED 43 YEARS, S/O.VARGHESE,
THACHIL VEEDU, ANGAMALY VILLAGE, ALUVA TALUK.**
 - 2. BABU, AGED 44 YEARS, S/O.THOMAS,
RESIDING AT AREECKAL VEEDU, VAPPALASSERY KARA
NEUMBASSERY VILLAGE, ALUVA TALUK.**

**BY ADVS.SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS**

RESPONDENT(S)/RESPONDENTS.:

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

BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
03-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.Rev.Pet.No. 738 of 2005 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A :** COPY OF THE ORDER IN M.C.NO,22/2004 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ALUVA.
- ANNEXURE B :** CERTIFIED COPY OF PROCEEDINGS IN C.C.NO.81/1997 OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT-II, ALUVA.
- ANNEXURE C :** COPY OF THE ORDER IN CRL.M.P.NO.1429/2004 IN CRL.A.NO.480/2004 OF THE SESSIONS COURT, ERNAKULAM.
- ANNEXURE D :** COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY THE JUDICIAL FIRST CLASS MAGISTRATE-II, ALUVA TO THE 1ST REVISION PETITIONER.
- ANNEXURE E :** COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY THE JUDICIAL FIRST CLASS MAGISTRATE-II, ALUVA TO THE 2ND REVISION PETITIONER.
- ANNEXURE F :** CERTIFIED COPY OF JUDGMENT IN CRL.A.NO.480/2004 OF THE IIND ADDITIONAL SESSIONS COURT, ERNAKULAM

RESPONDENT(S)' ANNEXURES :

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.HARILAL, J

Crl.R.P.No.738 of 2005

Dated this the 3rd day of July, 2015

ORDER

The petitioners are the counter petitioner Nos.1 and 2 in M.C.No.22/2004 on the files of Judicial First Class Magistrate Court-II, Aluva. They are the sureties of the accused in C.C.No.81/1997. In spite of the receipt of the notice, they failed to produce the accused when required by the trial court. So the trial court initiated the above proceedings against the petitioners and passed an order imposing Rs.5,000/- each as penalty on the petitioners. Aggrieved by the said order, though the revision petitioners had preferred Crl.Appeal.No.480/2004 before the Sessions Court, Ernakulam, the Sessions Judge also confirmed the order passed by the trial court as such without any interference.

2. Heard the learned counsel for the petitioner. The learned counsel for the petitioner submits that the petitioners are poor daily labourers and they are in financial difficulty and are not in a position to pay the

penalty as imposed by the learned Magistrate and confirmed by the learned Sessions Judge. The learned counsel for the petitioner further prayed for taking a lenient view in view of the matter that in compliance with the interim order passed by the appellate court in Crl.M.P.No.1429/2004. They have deposited Rs.2,000/- each towards the penalty and the same is evidenced by Annexure C.

3. Going by the certified copy of the proceedings of the court below, in C.C.No.81/1997, it could be seen that subsequent to passing of the impugned order under challenge, at the instance of the revision petitioners, the accused was traced out and arrested by police and produced before the court below on 23.04.2004 and he was committed to jail. The accused has already undergone the sentence for which he was convicted and now he is set free. In view of the subsequent event that the accused was brought under due process of law, a lenient view can be taken in this matter. Therefore, the penalty imposed on the revision petitioners will stand

reduced and modified to Rs.2,000/-(Rupees Two thousand only) each only and remission is allowed to the rest of the amount.

This revision petition is allowed in part.

Sd/-
K.HARILAL
JUDGE

VS