

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

Crl.Rev.Pet.No. 2174 of 2006

AGAINST THE JUDGMENT IN CRL.A.NO.170/2004 of I ADDITIONAL
SESSIONS COURT, THRISSUR DATED 30-01-2006

AGAINST THE JUDGMENT IN M.C.NO.254/03 IN ST 613/2000 of
J.M.F.C., KODUNGALLUR DATED 02-12-2003

REVISION PETITIONER(S)/APPELLANTS:

1. FATHIMA BEEVI, AGED 62 YEARS,
W/O. ABDULRAHIMAN, PADIYATH KARIKIDAKAVALLIYIL,
ERiyAD,
THRISSUR DISTRICT.

2. ABDULRAHIMAN, AGED 70 YEARS,
S/O. HYDROSUNNI, PADIYATH KARIKIDAKAVALLIYIL,
ERiyAD,
THRISSUR DISTRICT.

BY ADVS.SRI.RENJITH B.MARAR
SMT.LAKSHMI.N.KAIMAL

RESPONDENT:

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 18-08-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No.2174 of 2006

Dated this the 18th day of August, 2015

ORDER

The petitioners are the sureties of the accused in M.C. No.254 of 2003 in S.T.No.613 of 2000 on the files of the Judicial Magistrate of the First Class, Kodungallur. They had executed bonds before the trial court, when the accused in the above case was released on bail. They took the accused, on bail, by executing bonds for ₹30,000/- each, undertaking to cause production of the accused, as and when required. But, subsequently, the accused absconded in violation of the conditions of the bail bond and the petitioners failed to produce the accused before the trial court. When the petitioners failed to produce the

accused before the trial court, the trial court forfeited the bail bond and registered the above M.C. against the petitioners and thereafter, forfeited the bail bond and imposed a penalty of ₹20,000/- each on the petitioners and in default, to undergo simple imprisonment for a period of one month each, in civil prison. Though they have filed Crl. Appeal No.170 of 2004 before the Sessions Court, Thrissur, the learned Sessions Judge allowed the appeal, in part, by reducing the quantum of penalty to ₹10,000/- each and remission was granted for the balance amount. This judgment is under challenge in this revision petition.

2. In this revision petition, it is submitted that the petitioners are the parents of the accused and the accused had gone to Mumbai in search of a job, since his business had been collapsed. The petitioners tried their best to procure the presence of the accused before the learned Magistrate; but they could not succeed. There was no wilful negligence or default

from their part in not producing the accused before the court, when required by the trial court. It is also submitted that the above S.T. Case was instituted alleging the commission of the offence punishable under Sec.138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act'). After the registration of the above M.C. against the petitioners, the accused returned from Mumbai, raised money and settled the matter with the complainant and he has been acquitted of the offence under Sec.320(8) of the Cr.P.C. by filing a compounding petition. According to the petitioners, the quantum of penalty imposed on them is disproportionate with the nature and gravity of the default committed by them.

3. Going by the facts and circumstances of this case, it is seen that the petitioners are parents of a son, who happened to be an accused in a proceeding under Sec.138 of the N.I. Act. They stood as sureties to release their son on bail so as to avoid pre-trial incarceration. The circumstances under which they

stood as sureties are reasonable and justifiable. However, now their grievance is that their son is acquitted of the offence by way of compounding the offence; but they are under the threat of imprisonment in civil prison.

4. Having regard to the sad plight of the petitioners, as parents, who happened to be the sureties to release their son on bail, I am inclined to take a lenient view in this matter. Consequently, the penalty imposed on the petitioners will stand reduced and modified to ₹3,000/- (Rupees three thousand only) each and remission is granted for the balance amount. In case of default, the Magistrate Court is free to realise the said amount as if fine.

This revision petition is disposed of as above.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge