

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

Crl.Rev.Pet.No. 1216 of 2015 ()

ORDER IN M.C.21/2015 OF THE CHIEF JUDICIAL MAGISTRATE COURT,
KASARAGOD DATED 18.3.2015

JUDGMENT IN CrI.A 184/2015 OF THE DISTRICT AND SESSIONS COURT,
KASARAGOD DATED DATED 10.09.2015

REVISION PETITIONERS/APPELLANTS:

1. SWARNALATHA, AGED 41 YEARS
W/O.THIMMAPPA B.S., BALAVANTHADUKA HOUSE, P.O.PANDI
ADOOR VILLAGE, KASARAGOD DISTRICT.
2. THIMMAPPA B.S.
AGED 54 YEARS, S/O.SUBBA PATALI, BALAVANTHADUKA HOUSE
P.O.PANDI, ADOOR VILLAGE, KASARAGOD DISTRICT.

BY ADV. SRI.KODOTH SRIDHARAN

RESPONDENT/COMPLAINANT:

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

R BY PUBLIC PROSECUTOR SRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 07-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl.R.P. No.1216 of 2015

Dated this the 7th day of October, 2015.

ORDER

The revision petitioners are the counter petitioners in M.C.No.21 of 2015 on the files of the court of the Chief Judicial Magistrate, Kasaragod.

2. The revision petitioners were directed by the trial court to pay a penalty of ₹20,000/- each under Section 446 Cr.P.C. In the appeal, the penalty was modified to ₹10,000/- each.

3. Heard the learned counsel for the petitioners.

4. The prosecution case is that the revision petitioners executed bond on 30.6.2008 for the release of the accused in C.C.No.511 of 2008 on the files of the trial court on bail. However, the accused thereafter did not appear before the court as directed by the court. In the said circumstances, the court issued notice to the revision petitioners on being satisfied that the bail bond had been forfeited. The notice was served

on the revision petitioners. However, the revision petitioners did not appear before the court. The revision petitioners did not also give any explanation to the show-cause notice issued to them. In the said circumstances, the court directed each of the revision petitioners to pay penalty as stated above. The above said order awarding the penalty was upheld by the appellate court. However, the quantum of penalty was modified and reduced by the appellate court.

5. Having gone through the relevant inputs, I do not find any reason to hold that the finding of the courts below that the revision petitioners were liable to pay penalty under Section 446 Cr.P.C. is not legal, proper and correct.

6. The learned counsel for the revision petitioners has prayed for leniency in the matter of penalty. It has been submitted by the learned counsel for the revision petitioners that the revision petitioners are husband and wife, who persuaded the accused to surrender before the trial court after passing the order impugned and accordingly, the accused

surrendered before the trial court and he was acquitted by the trial court after the trial.

7. Considering the facts and circumstances of the case, including the submission of the learned counsel for the revision petitioners, I am of the view that leniency can be taken in the matter of penalty. Accordingly, I order so.

In the result, this revision petition stands allowed in part, modifying and reducing the penalty imposed by the courts below and remission is granted to the extent that each of the revision petitioners shall pay a penalty of ₹5,000/- each under Section 446 (3) Cr.P.C.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge