IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

MONDAY, THE 29TH DAY OF JULY 2024 / 7TH SRAVANA, 1946

CRL.A NO. 1332 OF 2024

CRIME NO.551 OF 2001 OF PERINTHALMANNA POLICE STATION, MALAPPURAM

ORDER DATED 11.06.2024 IN M.C.NO.4/2024 IN SC NO.67 OF 2019 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - III, MANJERI / III ADDITIONAL MACT, MANJERI

APPELLANT/RESPONDENT NO.1 IN MC NO.4 OF 2024:

ABDUL NAZAR
AGED 55 YEARS
S/O. MUHAMMED, PULLITHODI HOUSE, THANIKKAL,
KODOOR POST, PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT, PIN - 676504

BY ADV.
E.C.AHAMED FAZIL

RESPONDENT/PETITIONER IN MC/STATE-COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031

SMT. PUSHPALATHA M K – SR. P.P.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 29.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.G. AJITHKUMAR, J.

Crl.Appeal No.1332 of 2024

Dated this the 29th day of July, 2024

J U D G M E N T

This is an appeal filed under Section 495 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The appellant was one of the sureties of the accused in Sessions Case No.67 of 2019 pending before the Court of Sessions, Manjeri. Since the accused failed to appear in terms of the bond he has executed while releasing on bail, the bond stood forfeited. In the proceedings initiated thereupon invoking the provisions of Section 446 of the Code, the trial court imposed a penalty of Rs.20,000/- on the appellant. The other surety expired.

2. Heard the learned counsel for the appellant and the learned Public Prosecutor.

3. The case originated in 2001. Accused No.1 and 3 were tried and acquitted. Since the 2nd accused remained absconding, case against him was split up and refiled as Sessions Case No.67 of 2019. When notices were issued it

was reported that one of the sureties expired. The other surety is the appellant. He entered appearance and submitted that the accused was abroad and therefore he was not able to produce him before the court. The trial court considering the entire circumstances imposed penalty of Rs.20,000/- and remitted the remainder.

4. It is seen that no explanation was offered before the trial court by the appellant for getting absolved from the liability. When the accused is abroad and there is no justification for his failure to appear before the court, the appellant cannot contend that he has no obligation to pay the bond amount. The trial court however thought it fit to remit Rs.5,000/- from the bond amount. In the absence of any explanation from the part of the appellant and any tangible reason, I am of the view that there is no reasonable grounds to appeal against the impugned order.

Hence the appeal is dismissed in limine.

Sd/-
P.G. AJITHKUMAR
JUDGE

PV