
(2024) 07 KL CK 0114

High Court Of Kerala

Case No: Criminal Appeal No.1120 Of 2024

Nissar

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: July 30, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 446, 446(2)

Citation: (2024) 07 KL CK 0114

Hon'ble Judges: P.G. Ajithkumar, J

Bench: Single Bench

Advocate: P.V.Dileep, Sheeba Thomas

Final Decision: Allowed

Judgement

P.G. Ajithkumar, J

1. Appellants are the counter petitioners in M.C. No.5 of 2022 in S.C. No.798 of 2018 before the Assistant Sessions Judge, Karunagappally. As per

the order dated 22.11.2023, the learned Assistant Sessions Judge imposed a penalty of Rs.20,000/- each on the appellants under Section 446(2) of the

Code of Criminal Procedure, 1973. Aggrieved thereby this appeal has been filed.

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

3. The learned counsel for the appellants would submit that the case against accused No.4 in S.C. No.798 of 2018, for whom the appellants stood as

sureties, was quashed by this Court as per Annexure-1 order, and therefore the trial court ought not to have imposed any penalty. Having gone

through the records, it is seen that the accused No.4 failed to appear before the trial court on many occasions, which resulted in transferring the case

against him to the register of long pending cases. It was in the said circumstances, M.C. No.5 of 2022 was initiated. Even after the initiation of the

proceedings under Section 446 of the Code, appellants could not produce the accused before the court. Holding that no reasonable explanation was

offered by the appellants, the trial court imposed bond amount of Rs.20,000/- as penalty.

Subsequently, the case against accused No.4 was quashed and thereby the proceedings against him came to an end, that does not absolve the

appellants from their liability under the bail bond they had executed. However, taking into account that the requirement of accused No.4 appearing

before the trial court would not occasion on account of the subsequent quashment of the case, a lenient view can be taken in the matter of imposing

penalty. A part of the bond amount is liable to be remitted. Accordingly, the penalty amount is reduced to Rs.5,000/- each.

This appeal is allowed to the above extent.