

Hamsa vs State of Kerala

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/222/2024

Appellant : HAMSA

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, CRL.MC NO. 222 OF 2024 AGAINST THE ORDER/JUDGMENT MC 10/2023 OF ASSISTANT SESSIONS COURT/SUB COURT/COMMERCIAL COURT, CHAVAKKAD PETITIONER/S: HAMSA AGED 54 YEARS S/O. CHEKKU RESIDING AT KANDIRAGATH (H) VADAKKAEKADU P.O., PIN - 679562 BY ADVS. AJEESH S.BRITE FRANCIS ASSISI ARUNDHATHI J. NAIR BHADRA S.M. RESPONDENT/S: 1 STATE OF KERALA THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031 2 SIDHI P S/O MOIDUTTY

,PUTHUVETTIL HOUSE ,VAZHAPPULLY ,PERAKOM P.O
,VADAKKEKAD,THRISSUR DISTRICT MOIDUTTY, PIN - 680506
OTHER PRESENT: SRI. M.C. ASHI (PP) THIS CRIMINAL MISC. CASE
HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN
THOMAS, J CrI.M.C.No.222 of 2024
..... Dated this the 29th day of February, 2024

ORDER

Petitioner was one of the sureties to the accused in S.C.No.334/2018 on the files of the Sessions Court, Thrissur, which was subsequently renumbered as S.C.No.218/2023 of the Sessions Court, Thrissur. Since the accused failed to appear before the court, a non bailable warrant was issued after forfeiting the bail bond, and thereafter, proceedings

were initiated against the sureties by the impugned order

dated 20.11.2023. The petitioner was imposed with a penalty of Rs.25,000/-, which was equivalent to the entire value of the bail bond executed by them.

2. I have heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

3. Since the proceedings against the accused in S.C.No.334/2018

were quashed by this Court as per judgment dated 13.12.2023 in CrI.M.C.No.9991/2023, I am of the view that imposing the entire value of the bond as a penalty imposed is not commensurate with the nature of offence alleged against the petitioner. However, the obligation of the petitioner to ensure the presence of the accused ought to have been complied with, and the failure must visit him with penal consequences. Therefore, in the peculiar circumstances of the case, I am of the view that an amount of Rs.5,000/- would be a sufficient penalty.

4. In the circumstances, the impugned order dated 20.11.2023 in

M.C.No.10/2023 in S.C.No.334/2018 in S.C.No.218/2023 on the files of the Sessions Court, Thrissur, is modified, as far as the petitioner is concerned, by reducing the penalty to Rs.5,000/-. The Crl.M.C. is disposed of. sd/- BECHU KURIAN THOMAS JUDGE AMV/29/02/2024 APPENDIX OF CRL.MC 222/2024 PETITIONER ANNEXURES ANNEXURE 1 CERTIFIED COPY OF ORDER PASSED IN

CRL.M.C.10/2023 IN S.C. 334/2018 IN S.C.218/2023 DATED 20/11/2023 BY DISTRICT & SESSIONS COURT AT THRISSUR. ANNEXURE 2 CERTIFIED COPY OF ORDER PASSED IN CRL.M.C NO. 9991/2023 DATED 13/12/2023 BY HON'BLE HIGH COURT COURT OF KERALA. TRUE COPY

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