

Cheeru vs the State of Kerala

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.Rev.Pet/135/2021

Appellant : Cheeru

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA, 1944 CRL.REV.PET NO. 135 OF 2021 IN CRL.A. NO.64/2020 OF DISTRICT COURT & SESSIONS COURT,KOZHIKODE IN S.C.NO 1054/2017 OF SUB COURT, VADAKARA

REVISION PETITIONERS/APPELLANTS/COUNTER PETITIONERS: 1 CHEERU AGED 67 YEARS D/O KANNAN, ONTHAMPARAMBATH HOUSE, 2 ASOKAN AGED 54 YEARS S/O POKKAN, CHAMALIPARAMBATH HOUSE, BY ADVS. K.N.ABHILASH SRI.SUNIL NAIR PALAKKAT RESPONDENT/RESPONDENT/STATE: THE STATE

OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. 11. BY ADV SRI. NOUSHAD.K.A PUBLIC PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== Crl. R.P. No.135 of 2021
===== Dated this the 28th day of February, 2023

ORDER

Petitioners stood as sureties for the 4 th accused in S.C. No.1054/2017 on the files of the Assistant Sessions Court, Vatakara, Kozhikode.

2. Since the 4th accused absconded, notice was issued to the sureties to produce him. Even after receipt of notice the sureties failed to appear and also failed to submit any explanation. Therefore, the

learned Sessions Judge, by order dated 26.07.2019, in M.C. No.21/2019 in S.C. No.1054/2017, imposed a penalty of Rs.50,000/- which was equivalent to the bond executed by them.

3. Sri. K. N. Abhilash, the learned counsel for the revision

petitioners, contended that the learned Sessions Judge had not given any reason for imposing the amount of penalty equivalent to the bond executed and also that the penalty imposed is too onerous.

4. I have heard the learned Public Prosecutor and also considered the contentions

5. Though petitioners had executed a bond for Rs.50,000/- it is not necessary that when they fail to produce accused pursuant to notice, the same amount of bond should be imposed as a penalty.

Specific reasons have to be given as to why the entire amount of bond should be imposed as the penalty. I do not find any such reasons having been stated by the learned Sessions Judge.

6. Notwithstanding the above, it is noticed that despite notice

having been issued to the petitioners, they had failed to appear before the Court and also failed to produce the accused. Therefore, there is unpardonable conduct on the part of the petitioners warranting imposition of penalty.

7. Notwithstanding the above, taking note of the various circumstances arising in the case, I am satisfied that an amount of Rs.25,000/- each would be a sufficient penalty to be imposed against the petitioners.

8. Accordingly, I modify the impugned order to the extent of

the quantum of penalty imposed and reduce it to Rs.25,000/- each. If the penalty is not paid within a period of two months from today, necessary proceedings can be initiated against the petitioners. This criminal revision petition is allowed to the above extent. Sd/- BECHU KURIAN THOMAS JUDGE jka/28.02.23

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