

Ashraf vs State of Kerala

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : CRL.A/1078/2023

Appellant : Ashraf

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
CRL.A NO. 1078 OF 2023 MC 2/2023 OF FAST TRACK SPECIAL
COURT, PARAPPANANGADI SC 609/2017 OF FAST TRACK SPECIAL
COURT, PARAPPANANGADI APPELLANTS/COUNTER
PETITIONERS: 1 ASHRAF AGED 49 YEARS S/O. HASSAN KUTTY,
AGED 49 YEARS, MANJARODAN THADATHIL HOUSE,
CHENAKKALANGADI P.O., TIRURANGADI TALUK, MALAPPURAM,
PIN - 673636 2 SAINABA AGED 44 YEARS W/O. ASHRAF, D/O.
PAVAKULATH KUNHAMMED, THADATHIL HOUSE,
CHENAKKALANGADI P.O., TIRURANGADI TALUK, MALAPPURAM,

PIN - 673636 BY ADV K.RAKESH RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 682031 BY ADV PUBLIC PROSECUTOR BY PUBLIC PROSECUTOR SRI. M P PRASANTH THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: CRL.A NO. 1078 OF 2023 2

JUDGMENT

Dated this the 1st day of August, 2023 This appeal has been filed under Section 449 of the Code of

Criminal Procedure and the appellants, who are sureties to the accused in S.C.No.609/2017 on the files of the Special Judge, FTSC, Parappanangadi (Manjeri Sessions Division), impugns order, dated 27.3.2023 in M.C.No.2/2023 in the above case, whereby, the learned Magistrate imposed penalty to the tune of Rs.50,000/- each, against the appellants, on finding forfeiture of bond, due to absence of the accused before the trial court, in obedience of the bail bond executed by him and the appellants herein together.

2. Insofar as the order is concerned, the learned counsel for the appellants is satisfied with reduction in the amount.

3. As far as forfeiture of bond is concerned, forfeiture took place when the sureties fail to show cause sufficient reasons for non-appearance of the accused which led to forfeiture of the

bond. Therefore, the order impugned, directing payment of CRL.

matter of penalty, in consideration of financial crisis, that has been argued by the learned counsel for the appellants, the same can be reduced to Rs.20,000/- each.

4. In the result, this Criminal Appeal stands allowed in

part. The penalty ordered by the trial court, as per the impugned order, stands reduced to Rs.20,000/- each, with a direction to the appellants to pay the same, within a period of 15 days from today and the appellants are directed to appear before the trial court on 16.8.2023, to pay the fine amount.

5. It is specifically ordered that, if the appellants fail to

pay the amount on 16.8.2023, as ordered, the impugned order

shall stand revived and in such event, the appellants shall pay the entire amount, as per the impugned order and the trial court is directed to realise the penalty as per the impugned order, as such. Sd/- A. BADHARUDEEN JUDGE Bb

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