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Thomaskutty vs State of Kerala

Thomaskutty vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-01-2022

Judge : Honourable Mrs. Justice Mary Joseph

Appeal No. : Crl.MC/3357/2022

Appellant : Thomaskutty

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE MARY JOSEPH WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944 CRL.MC NO. 3357 OF 2022 AGAINST THE ORDER DATED 12.05.2022 IN CRL.M.P.NO.720/2022 IN CRL. APPEAL NO.57/2022 OF ADDITIONAL SESSIONS COURT-II, KOLLAM PETITIONER/PETITIONER/APPELLANT: THOMASKUTTY, AGED 55 YEARS S/O YOHANNAN, ST.THOMAS HOUSE, VARINJATHU CHERRY, KALLUVATHUKKAL VILLAGE, KARAMCODE P.O, KOLLAM. BY ADV SRI.P.SIVARAJ RESPONDENTS/STATE AND 2ND RESPONDENT: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM -682 031. 2

ABDUL FATHAH, AGED 66 YEARS, S/O.MUHAMMED KUNJU, FENAS COTTAGE, VARINJATHU CHERRY, MEENADU VILLAGE, KOLLAM DISTRICT-691 334. R1 BY SRI C.S.SREEJITH, SR. PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.06.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 01st day of June, 2022 This petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C) seeking to quash Annexure A1 order.

2. Vide Annexure A1 order passed by Additional Court

of Sessions-II, Kollam (for short the appellate court) the petitioner was directed to execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the trial court and to deposit 20% of the fine amount before the trial court under Section 148 (1) of the Negotiable Instruments Act, 1881 (for short NI Act) within a period of one month from

the date of the order. Annexure A1 order was passed on 12.05.2022.

3. According to the learned counsel, the fine amount

liable to be imposed by the court below under Section 29 Cr.P.C being Rs.10,000/- , the appellate court is not justified in directing deposit of 20% of Rs.14,00,000/-.

4. This Court has noticed that the trial court has

convicted the petitioner and sentenced him to undergo simple imprisonment for three months and to pay fine amount of Rs.14,00,000/-. Rs.14,00,000/- was imposed as fine not under Section 29 Cr.P.C, but under Section 138 N.I. Act. Under Section 148 N.I. Act, the petitioner is liable to deposit 20% of the fine amount imposed as Rs.14,00,000/- for getting the execution of the sentence suspended. The court below is justified in passing the impugned order and there is

absolutely no reason to interfere with. Crl.M.C fails and is dismissed. Sd/- MARY JOSEPH JUDGE NAB APPENDIX OF CRL.MC 3357/2022 PETITIONERS ANNEXURES: ANNEXURE A1 TRUE COPY OF THE ORDER DATED 12.05.2022 IN CRL.M.P.720/2022 IN CRL.APPEAL NO.57/2022 OF ADDITIONAL SESSIONS COURT-II, KOLLAM. RESPONDENTS ANNEXURES: NIL // TRUE COPY// P A TO JUDGE

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