

IN THE COURT OF THE SPECIAL JUDGE (NDPS ACT CASES), VATAKARA

Present:-Sri. Biju V G, Special Judge (NDPS Act Cases)

Saturday, the 28th day of December, 2024

Crl. MC. No. 1/2023 in SC. 490/2023(IPC)

Petitioner	]	State of Kerala, Represented by the Special Judge,
	]	(NDPS Act Cases)/ Addl. District & Sessions Judge,
		Vatakara.
	]	1. Lineesh S/o Kanaran, Meethale Thayyil (H),
	]	Aroor (PO), Purameri, Aroor, Vatakara
Respondents		
		2. Sasi M P, S/o Kannan, Madathilpeedikayil,
		Perumundassery, Purameri, Aroor,
		Perumundassery, Vatakara, Aroor(PO)

(U/s. 446 Cr.P.C.)

ORDER

The proceedings initiated suo moto u/s 446 of the Code of Criminal Procedure.

2. The respondents are the sureties of the accused in SC.490/2023. The accused was charged with the offence punishable under section 143, 147, 148, 341, 452 and 427 IPC read with section 149 IPC and section 3 and 5 of the Explosives Substances Act. The accused was released on bail on 30.08.2016 on executing bond for Rs.25,000/- with two solvent sureties for the like sum for his due appearance. The respondents executed a bond for Rs.25,000/- for the due appearance of the accused. The accused failed to appear before court on 09.08.2023 when the case was posted for appearance of accused. The summons was returned with the report that the

accused is abroad. Hence non bailable warrant was issued against him. Presence of the accused could not be secured even after issuing non bailable warrants and steps under section 82 and 83 Cr.P.C. Hence the bail bond executed by the respondents stands forfeited and cancelled.

3. Show cause notice was issued to respondents to pay a penalty of Rs.25,000/- each or appear on 19.12.2023 and show cause why penalty should not be paid. The respondents appeared through counsel on 20.03.2024 and filed an application to condone their absence. Though the case was adjourned to 09.04.2024 for their appearance showing cause and subsequently to 25.04.2024, 08.05.2024, 22.05.2024, 29.06.2024, 30.07.2024, 30.08.2024, 28.09.2024, 28.10.2024 and 28.11.2024, the respondents failed to appear before court. Today also the respondents remained absent.

4. The respondents failed to show any reason for not imposing penalty on them. The offence alleged against the accused is of serious nature and he absconded when the case was posted for appearance of the accused. In the decision in *Istkar v. State of UP* (2023 (1) KLD 157), the Hon'ble Supreme Court held that even when no cause is shown, the penalty can be remitted under section 446 (3) of the Cr.PC. Though the respondents does not deserve any leniency, considering the nature of offences in the case,

I hold a view that the bond amount is excessive and some leniency can be shown regarding the penalty amount. Therefore, I hold a view that the respondents can be directed to pay a penalty of Rs.15,000/- and the balance bond amount can be remitted. Hence the respondents are liable to pay penalty of Rs.15,000/- each.

In the result, the respondents are directed to pay penalty of ₹15,000/- (Rupees Fifteen thousand only) each. If the penalty amount is not recoverable by Distress Warrant, the sureties shall be put in civil prison for a period of two months each.

(Dictated to the Confidential Assistant, typed by her directly in the computer, corrected and pronounced by me in Open Court, this the 28th day of December, 2024)

**Sd/-
Special Judge (NDPS Act cases)**

//True Copy//

SHERISTADAR

*Copied By : Soumya E V, U.D Typist
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