

**IN THE COURT OF SESSIONS, THALASSERY**

Present: Sri. K.T.Nisar Ahammed, Sessions Judge.

Monday, the 23<sup>rd</sup> day of March, 2026/ 2<sup>nd</sup> Chaithra, 1948

**CRIMINAL APPEAL No.88 OF 2026**

From which Court the : Chief Judicial Magistrate, Thalassery  
appeal is preferred

No. of case in that : MC 9/2025  
Court

Name and description : Baburajan, S/o. Kanaran,  
of the Appellant. Kundyakkochalil House, P.O.Poyiloor,  
Thrippangottur, Kannur District.

Name and description : State: Rep. by Public Prosecutor,  
of the Respondent. Thalassery.

The sentence and the : Accused and counter petitioner failed to  
provision of law : comply with the conditions imposed by the  
under which it was : court and thus committed breach of bond.  
imposed by the trial : In the circumstances his liability to pay the  
Court. : bond amount as penalty is upheld and a  
penalty of Rs.25,000/- is imposed herewith  
and remission is allowed for the balance  
amount. If the amount is not realized by  
proceeding against the property, the  
counter petitioner shall undergo civil  
imprisonment for one month.

Whether confirmed, : Modified.  
reversed or modified :  
and if modified, the : The appeal is allowed in part. The  
modification : impugned order is hereby confirmed, but  
with slight modification, i.e the appellant  
has to pay Rs.5,000/- (Five Thousand only)  
as penalty within 30 days. In default, the  
trial court shall at liberty to realize the  
amount by resorting coercive steps. If the  
amount could not be realized, he has to  
undergo imprisonment in Civil Prison for  
30 days.

## Date of or on which

Presentation	Filing	Issuance of notice to the respondent	Appearance of respondent
1	2	3	4
10.03.2026	16.03.2026	--	--
Appellant ordered to appear	Release on execution of bail bond	Final Hearing	Judgment
5	6	7	8
	--	16.03.2026	23.03.2026

This appeal coming on for hearing before me, upon perusing the appeal and the record of the evidence and proceedings and upon duly considering the same after hearing the arguments of Sri.Albin Scaria, Advocate for the Appellant; Sri. K. Ajith Kumar, Public Prosecutor for the State/Respondent ; I do adjudge and pass the following:-

### **J U D G M E N T**

Appeal filed u/s.495 of BNSS against the order passed by the Chief Judicial Magistrate, Thalassery in MC.9/2025.

2. The facts in brief are as follows:

The appellant was the surety No.2 of accused No.2 in CC 1275/2023 before the Chief Judicial Magistrate Court, Thalassery. He had executed a bond for Rs.50,000/- undertaking to produce the accused before court. The accused absconded. Notice was issued to the appellant to show cause why the bond amount should not be realized from him. Though notice was served, he failed to appear. He did not produce the accused nor give any explanation. Hence, the trial court was pleased to impose penalty of Rs.25,000/- to the appellant. Remission is allowed for the balance amount. If not paid

or realized, the appellant shall undergo imprisonment in a civil prison for one month.

3. Aggrieved by the above order, the appellant/ 2<sup>nd</sup> surety has preferred the present appeal on the following grounds:

The impugned order is illegal and improper. The trial court should have given sufficient time for the appellant to produce the accused. The accused later surrendered before court and he was granted bail and the matter was settled between the parties. The trial court should have shown some leniency. The amount ordered is exorbitant. Hence the appellant prays to set aside the impugned order.

4. The learned counsel for the appellant has submitted that he has no objection in taking the appeal for orders without calling the trial court records. Hence, the matter was heard and taken for orders.

5. Now, the points that arise for consideration are:

- 1) Whether the impugned order is having any illegality or impropriety?
- 2) Relief and costs?

6. **Point No.1:-** Admittedly, the appellant is the surety No.2 of the 2<sup>nd</sup> accused in CC. 1275/2023 before the Chief Judicial Magistrate Court, Thalassery. The appellant/surety had executed a bond of Rs.50,000/-. The accused absconded. Notice issued to the appellant. He failed to appear and produce the accused. Hence, the trial court registered the above MC and an amount of Rs.25,000/- was imposed as penalty to the appellant. Now, the appellant has approached this court to set aside the above order on the ground that sufficient opportunity was not given to him to produce the accused and the amount imposed is highly exorbitant. The trial court has

imposed a penalty of Rs.25,000/- . Going by the order itself, sufficient opportunity was granted to the appellant. There is absolutely no illegality or impropriety in the impugned order.

7. **Point No.2 :** - Here, one of the ground for appeal was that the amount imposed by the trial court is exorbitant, the trial court ought to have shown some leniency. The trial court has imposed a penalty of Rs.25,000/-. I am of the opinion that there can be some leniency towards the appellant regarding the amount to be paid. So, in view of my finding on Point No.1 and for the above circumstance, the appeal is allowed in part. The impugned order is hereby confirmed, but with slight modification, i.e the appellant has to pay Rs.5,000/- (Five Thousand only) as penalty within 30 days. In default, the trial court shall at liberty to realize the amount by resorting coercive steps. If the amount could not be realized, he has to undergo imprisonment in Civil Prison for 30 days.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court, this the 23<sup>rd</sup> day of March, 2026).

Sd/-

SESSIONS JUDGE

Typed by : Bhagyarajan.C  
Compared by : Manjush.C

**IN THE COURT OF SESSIONS,  
THALASSERY**

CRIMINAL APPEAL No:88/2026

**J U D G M E N T**

DATED :23.03.2026

To

- 1.The Registrar, High Court of Kerala,  
Ernakulam, Kochi - 682 031.
- 2.The Chief Judicial Magistrate,  
Thalassery.
- 3.The Public Prosecutor, Thalassery.
- 4.The Appellant.

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