



2023:KER:69550

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 10TH DAY OF NOVEMBER 2023 / 19TH KARTHIKA,
1945

WP(CRL.) NO. 1046 OF 2023

CRIME NO.2128/2020 OF KUNDARA POLICE STATION, KOLLAM

PETITIONER/S:

MATHEWS.A, AGED 25 YEARS
S/O AIGEN. L, JYOTHIS BHAVAN, MULAVANA, KOLLAM
DISTRICT, PIN - 691503

BY ADVS.
S.K.ADHITHYAN
ALTHAF NABEEL

RESPONDENT/S:

- 1 THE STATE OF KERALA
REPRESENTED BY ADDITIONAL CHIEF SECRETARY, HOME
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN
- 695001
- 2 THE DEPUTY INSPECTOR GENERAL,
THIRUVANANTHAPURAM RANGE, THIRUVANANTHAPURAM-
695001, PIN - 695001
- 3 DISTRICT POLICE CHIEF KOLLAM RURAL
T.B.JUNCTION, KOTTARAKKARA, P.O. KOLLAM DISTRICT,
PIN - 691506
- 4 DEPUTY SUPERINTENDENT OF POLICE,
SASTHAMCOTTA, KOLLAM DISTRICT-690521, PIN -
690521



2023:KER:69550

WP(CRL.) NO. 1046 OF 2023

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5 STATION HOUSE OFFICER
KUNDARA POLICE STATION, KOLLAM RURAL, KOLLAM
DISTRICT, PIN - 691001

BY ADVS.
ADVOCATE GENERAL OFFICE KERALA
ADDL.DIRECTOR GENERAL OF PROSECUTION(AG-11)
ADDL. STATE PUBLIC PROSECUTOR(AG-28)

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 10.11.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

A. MUHAMED MUSTAQUE, J.

The petitioner in this writ petition questions an order of externment issued invoking Section 15(1) of the Kerala Anti-Social Activities Prevention Act, 2007 (for short, "the KAA(P)A").

2. The main argument raised by the learned counsel for the petitioner is that the order was passed after much delay reckoning from the date of last prejudicial activity. According to him, such externment order was passed after lapse of four months. The original authority passed the order of externment for a period of six months, which was reduced to four months by the Advisory Board under the KAA(P)A. In the order passed by the Advisory Board itself this aspect regarding the delay was adverted to. It is seen from the order that notice was



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issued on 02.08.2023. According to the petitioner, the last prejudicial activity was on 17.04.2023 and a show cause notice was issued only on 02.08.2023.

3. Learned Government Pleader points out that the petitioner was arrested on 06.05.2023 and released on bail on 12.05.2023. The Station House Officer filed a report only on 25.07.2023.

4. It is not necessary in every case that the delay would be decisive. The authority will have to consider many aspects while passing such order. This is not a case, where a detention order has been passed. It is only an externment order. Having adverted to the factual situation as above, as we find there is much delay affecting the proprietary of the impugned order, no interference is called for to set aside the order. However, also taking note of the fact that the order is



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already in operation for more than three months, we confine the operation of the externment order till today (10.11.2023). However, the petitioner shall report to the Station House Officer, Kundara Police Station every Monday at 11 am for a period of one month.

The writ petition is disposed of accordingly.

Sd/-

A. MUHAMED MUSTAQUE

JUDGE

Sd/-

SHOBA ANNAMMA EAPEN

JUDGE

bka/-



APPENDIX OF WP(CRL.) 1046/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE FIR IN CRIME NO.
2128/2020 OF KUNDARA POLICE STATION
DATED 23/06/2023
- Exhibit P2 TRUE COPY OF THE FIR IN CRIME NO.
2138/2020 OF KUNDARA POLICE STATION
DATED 25/06/2020
- Exhibit P3 TRUE COPY OF THE FIR IN CRIME NO.
2140/2020 OF KUNDARA POLICE STATION
DATED 25/06/2023
- Exhibit p4 TRUE COPY OF THE RELEVANT PAGES OF FIR
IN CRIME NO. 682/2023 OF KUNDARA
POLICE STATION DATED 17/04/2023
- Exhibit P5 TRUE COPY OF THE ORDER NO. SIT-
10262/2023/TR DATED 21/8/2023 ISSUED
BY THE 2 ND RESPONDENT
- Exhibit P6 TRUE COPY OF THE ORDER ISSUED IN O.P
NO. 88/2023 BY THE ADVISORY BOARD
UNDER THE KAP(P)A, 2007 DATED
27/9/2023
- EXHIBIT P7 True copy of the appeal filed as O.P
No. 88/2023 dated 8/9/2023 before the
KA(A)PA Advisory Board