
(2024) 03 KL CK 0159
In the High Court Of Kerala
Case No : Writ Petition (C)No.10996 Of 2024

Basil Saju

APPELLANT

Vs

Deputy Inspector General Of Police Range Office

RESPONDENT

Date of Decision : 19-03-2024

Acts Referred:

Citation : (2024) 03 KL CK 0159

Hon'ble Judges : A.Muhammed Mustaque, J;Shoba Annamma Eapen, J

Bench : Division Bench

Advocate : Sajeev Kumar K.Gopal, K.A. Anas

Final Decision : Disposed Of

Judgement

A. Muhammed Mustaque, J.

1. The petitioner is challenging Ext.P5 notice proposing to take an action under the Kerala Anti-social Activities (Prevention) Act, 2007 (for short "KAAPA Act"). According to the learned counsel for the petitioner, the authority has already entered into a factual finding as against the petitioner before he is being heard and therefore, the authority cannot proceed against the petitioner on a prejudgment of the matter. It is true that tentative findings have been referred in the impugned notice. These are the factual foundations on which action is proposed against the petitioner. The petitioner is at liberty to controvert these allegations attributed against him. We may not be justified in interfering with this order at this stage.

2. A Division Bench of this Court in Vineesh O.K. v. Inspector General of Police, Kannur [2013 (2) KHC 882] held that show cause notice issued under the KAAPA Act cannot be quashed unless it is issued with a jurisdiction. We make it clear that the authority cannot proceed with on the factual narrations as above, unless opportunity is given to the petitioner to controvert. The petitioner is given a week's time from today to raise objections. The petitioner shall also be permitted to have legal assistance in the matter. While passing order, the authority shall

consider 107 proceedings initiated under Code of Criminal Procedure as against the petitioner.

This writ petition is disposed of as above.