
(2024) 01 KL CK 0181
In the High Court Of Kerala
Case No : Writ Petition (Crl) No. 1335 Of 2023

Mani K

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 25-01-2024

Acts Referred:

Citation : (2024) 01 KL CK 0181

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

Bench : Division Bench

Advocate : M.H.Hanis, P.M.Jinimol, Nancy Mol P., T.N.Lekshmi Shankar, Ciya E.J., Anandhu P.C., Neethu.G.Nadh, K.A Anas

Final Decision : Disposed Of

Judgement

A. Muhamed Mustaque, J

1. The petitioner is the father of the detenu namely, Sudheesh K. Sudheesh K is detained under the Kerala Anti-Social Activities (Prevention) Act, 2007. Altogether there were five cases against him, starting from 2017 onwards. He is aged only 23 years. When the first two crimes were committed, he was a juvenile. All the offences registered against the detenu are relatable to political disputes. The last crime was registered on 17.07.2023. He was arrested on 18.07.2023. That was a case related to destroying the flag post of the rival party. This Court granted bail in the last crime on 17.08.2023. The report was filed by the sponsoring authority before the detention authority on 14.09.2023 and the detention order was passed on 27.10.2023.

2. It is to be noted that the sponsoring authority submitted the report after knowing that the detenu was released on bail. Absolutely, no steps were taken by the sponsoring authority to submit the report immediately after the commission of last offence on 17.07.2023. It is to be noted that from 18.07.2023 onwards, he was in custody till 17.08.2023.

3. It is to be noted that in the last crime, no overt act has been attributed

against the detenu. In such circumstances, the detaining authority ought to have applied mind whether the detenu had an active involvement in commission of the offence. Mere registration of FIR of the crime itself will not be sufficient to issue a detention order. An enquiry has to be conducted as to the nature of involvement by the detenu in crime committed. That apart, we see that there was a considerable delay in this matter by the sponsoring authority in reporting the matter to the detaining authority. Nothing prevented the sponsoring authority from reporting the offence before the detention authority immediately after commission of offence. Absolutely, no explanation is forthcoming in the impugned order. Accordingly, the impugned order is set aside.

We directed the detenu to have evaluation by medical team. The report of the District Taluk Legal Services Authority, Thrissur is on board. As per the report of MHC, Thrissur, he requires some more continuous medication as advised by the psychiatrist at the Government Mental Health Center, Thrissur. He is a native of Kasaragode. Therefore, we order that he shall be released forthwith, and on release, he shall report before the Secretary, District Legal Services Authority, Kasaragode and he shall undergo medication as suggested or advised by the psychiatrist, Government Hospital, Kasaragode. The Secretary, District Legal Services Authority, Kasaragode shall file a report before this court in this regard.

This W.P. CrI. is disposed of as above.