

(2024) 02 KL CK 0093

High Court Of Kerala

Case No: Writ Petition (Crl) No. 3 Of 2024

Molly

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Feb. 12, 2024

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

Bench: Division Bench

Advocate: Vinay Ramdas, K.B.Anamika, K.A.Anas

Final Decision: Dismissed

Judgement

A.Muhammed Mustaque (J)

This writ of habeas was filed by the mother of the detenu. This is the 5th detention order of the detenu. The last prejudicial activity of the detenu was stated to be occurred on 24.05.2023, in which he was the third accused. The defacto complainant was one Devan. It is alleged that the detenu attacked the defacto complainant by hitting his chest using the detenu's hand. It is also noted that, on the same day, another crime was registered on a first information given by Sub Inspector of Police, Ollur Police Station, alleging damage to the police vehicle. The Sponsoring Authority filed report on 13.07.2023. The detention order was passed on 03.08.2023. The detenu was released on 17.06.2023 after the last prejudicial activity. We do not find that the last crime is significant enough to hold that the detenu is a threat to public order. Here the crime may attract the provisions under the Kerala Anti-Social Activities (Prevention) Act, (for short "the KAAPA") 2007, but what is to be considered is that whether the role of detenu in such a crime poses a threat to society at large.

Considering the nature and solitariness of the crime committed by the detenu and the fact that the detenu is being detained successively for the reason that he is involved in successive crimes, we are of the view that this is not a fit case where KAAPA proceedings have to be invoked by the authority. The idea under the KAAPA is not to penalize the persons but to ensure that repetition of the offence is prevented. Adverting to the nature of the case, we are of the view that this is a fit case where the impugned order has to be set aside and we direct the prison authorities to release the detenu forthwith, if his detention is not otherwise required under law.

The Writ Petition is dismissed accordingly.