

Naseema Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Feb. 3, 2025

Acts Referred: Kerala Anti-Social Activities (Prevention) Act, 2007 " Section 3(1), 13(2)(i), 13(2)(ii)

Hon'ble Judges: P.B. Suresh Kumar, J; Jobin Sebastian, J

Bench: Division Bench

Advocate: M.H.Hanis, T.N.Lekshmi Shankar, Nancy Mol P., Anandhu P.C., Neethu.G.Nadh, Ann Mary Ansel, Sinisha Joshy, Ria Elizabeth T.J., Sahad M. Hanis, K.S. Anas

Final Decision: Allowed

Judgement

Sl.

No.",Crime No.,Police Station,Crime Date,"Offences",

involved under

Sections","Present status

of case

1,2934/2017,Kayamkulam,22.11.2017,"341, 394, 427 IPC",Pending trial

2,2067/2018,Kayamkulam,12.07.2018,"341, 323, 427 IPC.",Pending trial

3,2071/2018,Kayamkulam,16.07.2018,"353, 34 IPC",Pending trial

4,2787/2018,Kayamkulam,31.10.2018,"143, 147, 148, 149,

323, 324, 326, 212

of IPC. & Section

27(1), 5(a) of Arms

Act",Pending trial

5,824/2020,Kayamkulam,12.04.2020,"447, 506(ii), 427, 34

IPC & 27 of Arms

Act &4(2)(e), 5 of

Kerala Epidemic

Diseases

Ordinance Act,

2020",Pending trial

6,1121/2020,Kayamkulam,29.05.2020,"506(ii), 365, 323,

340, 324, 34 IPC &

5(a) r/w 27(1) of

Arms Act",Pending trial

7,1285/2020,Kayamkulam,18.07.2020,"323, 324 IPC",Pending trial

8,443/2022,Aluva East,31.03.2022,"342, 294, 21 IPC &

Sec 3 r/w 25 (i-B)

(a) of Indian Arms

Act",Pending trial

9,109/2024,Kayamkulam,25.01.2024,"307, 323, 341, 427,

34 IPC", "Under

investigation

records it is evident that after the commission of the said crime, the accused absconded. The records further reveal that the District Police Chief, " , , , , ,

Alappuzha, submitted the proposal to the competent authority for initiation of proceedings under Section 3(1) of the KAA(P) Act on 26.03.2024. " , , , , ,

Therefore, it is decipherable that there is a delay of 60 days in submitting the proposal after the commission of the last prejudicial activity. The said" , , , , ,

delay cannot be justified as necessary for observing natural justice principles. , , , , ,

9. Curiously, in the impugned order itself it is admitted that there occurred some delay in mooted the proposal. The reason for the said delay shown in" , , , , ,

the impugned order is that additional time was required to collect the details of the cases in which the detenu was involved. In the case at hand, nine" , , , , ,

cases formed the basis for proposing and issuing the detention order. The details of those cases were readily available and could have been obtained , , , , ,

without delay, given the technological upgradation attained by the law enforcement authority. Therefore, the explanation that additional time was" , , , , ,

required to collect the details of the cases in which the detenu is involved is not justifiable. Though it is true that the accused was absconding after the , , , , ,

commission of the last prejudicial activity there is no legal impediment in initiating proceedings under KAA(P) Act against an accused who had , , , , ,

absconded after the last prejudicial activity. On the other hand, when the accused is neither apprehended nor in custody in connection with the last" , , , , ,

prejudicial activity the sponsoring authority should have been more vigilant to take quick actions to initiate proceedings under KAA(P) Act especially , , , , ,

when the accused is qualified to be booked under KAA(P) Act. , , , , ,

10. If the Superintendent of Police who mooted the proposal was having bonafide apprehension regarding the repetition of anti-social activities by the,,,,,

detenu, definitely he would have acted swiftly after the last prejudicial activity. In the case at hand, as already stated, there is a delay of 60 days in" ,,,,,,

mooting the proposal for the detention order. Therefore, nobody could be blamed if it is found that, the live link between the last prejudicial activity and" ,,,,,,

the purpose of detention is snapped. The delay of 60 days in mooted the proposal itself shows that the proposed officer did not have any genuine,,,,,

apprehension regarding the immediate repetition of criminal activities by the accused.,,,,,,

11. Therefore, we are of the considered view that the delay in mooted the proposal is unreasonable and unjustifiable. If the true objective was to" ,,,,,,

prevent the detenu from engaging in anti-social activities, the authority ought to have acted with greater alacrity in submitting the proposal and issuing" ,,,,,,

the consequent order. Therefore, the only conclusion that can be arrived at is that the live link between the last prejudicial activity and the purpose of" ,,,,,,

detention has been snapped.,,,,,,

12. In the result, this Writ Petition is allowed and Ext.P1 order of detention is set aside. The Superintendent of Central Prison, Viyyur, Thrissur is" ,,,,,,

directed to release the detenu, Sri. Ansaf @ Malu forthwith, if his detention is not required in connection with any other case." ,,,,,,

Ã, The Registry is directed to communicate the order to the Superintendent of Central Prison, Viyyur, Thrissur forthwith." ,,,,,,