



2025:KER:49800

WP (CRL.) NO. 802 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 7TH DAY OF JULY 2025 / 16TH ASHADHA, 1947

WP (CRL.) NO. 802 OF 2025

PETITIONER:

SHANIF
AGED 44 YEARS
S/o. SHAMSUDHEEN, POKKAKKILATH HOUSE,
PANNISSERY DESAM, CHOONDAL VILLAGE,
THRISSUR DISTRICT, PIN - 680502

BY ADVS.
SRI.C.DHEERAJ RAJAN
SHRI.ANAND KALYANAKRISHNAN
SHRI.LIBIN VARGHESE

RESPONDENTS:

- 1 STATE OF KERALA
REP BY CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT
(HOME & VIGILANCE), SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE DEPUTY INSPECTOR GENERAL OF POLICE
(THRISSUR RANGE), HIGH ROAD, THRISSUR, PIN - 680001



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- 4 DISTRICT POLICE CHIEF
RAMAVARMAPURAM ROAD, MANNUMKAD, RAMAVARMAPURAM,
THRISSUR, KERALA, PIN - 680631
- 5 STATION HOUSE OFFICER
GURUVAYOOR POLICE STATION, MELEPUTHUR ROAD,
GURUVAYOOR, THRISSUR DISTRICT, PIN - 680012

BY ADVS.
PUBLIC PROSECUTOR
ADDL.DIRECTOR GENERAL OF PROSECUTION

ADV. K.A. ANAS, PUBLIC PROSECUTOR.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR FINAL HEARING
ON 07.07.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**J U D G M E N T****RAJA VIJAYARAGHAVAN V, J.**

The above-captioned Writ Petition is filed by the petitioner challenging Ext. P3 order issued by the 3rd respondent restricting the movements of the petitioner invoking powers under Section 15 of the Kerala Anti-Social Activities (Prevention) Act, 2007 ('KAAP Act' for brevity). By the order impugned, he has been interdicted from entering into the territorial limits of Thrissur Revenue District for a period of six months from the date of execution of the order.

2. Short facts are as under:

The records reveal that the District Police Chief, Thrissur, the sponsoring authority, furnished a report seeking initiation of proceedings under Section 15 of the KAA(P) Act on account of the involvement of the petitioner in four crimes registered within the limits of various Police Stations in Thrissur District. It was mentioned that the petitioner has acquired the qualification for being classified as a 'known rowdy'. On the basis of the said report, the petitioner was issued a show cause notice on 22.04.2025 calling upon him to appear before the 3rd respondent on 30.04.2025. The petitioner failed to submit a reply and consequently Ext.P3 order dated 09.05.2025 was issued.

3. Ext.P3 order reveals that the externee got involved in four crimes, the details of which are as under:



- (a) Crime No. 175 of 2019 of the Chavakkad Police Station, registered for the offences punishable under Sections 341, 323, 324, 326, 294(b) r/w. Section 34 of the IPC, wherein the externee is the 1st accused.
- (b) Crime No. 548 of 2023 of the Guruvayur Temple Police Station, registered for the offences punishable under Sections 341, 323, 325, 506 r/w. Section 34 of the IPC, wherein the externee is the 1st accused.
- (c) Crime No. 1111 of 2023 of the Kunnamkulam Police Station, registered for the offence punishable under Section 323 r/w. Section 34 of the IPC, in which case, the accused was arrayed as the 3rd accused.
- (d) Crime No. 1433 of 2024 of the Kunnamkulam Police Station, registered for the offences punishable under Sections 126(2), 117(2) of the BNS, in which the externee is the 1st accused.

4. Sri. Dheeraj Rajan, the learned counsel appearing for the petitioner, submitted that the order passed by the 2nd respondent is vitiated on various grounds. It is pointed out that, except for the first crime, which was allegedly committed in the year 2019, the rest of the crimes are bailable in nature. He was released on Station Bail immediately after his arrest. The last prejudicial act is Crime No. 1433 of 2024 which was registered on 21.10.2024. Immediately thereafter, proceedings under Section 126 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) were initiated, and the petitioner appeared before the SDM Court, Thrissur on 01.01.2025, and executed a bond. Thereafter, no crimes have been registered against the petitioner. However, it was much later, after the lapse of



almost 6 months from the commission of the last prejudicial act, that a proposal was submitted and the externment order was passed one month later. According to the learned counsel, in view of the fact that the externnee did not get himself involved in any crime after the execution of bond under Section 126 of BNSS, there was no justification on the part of the externment authority in passing the said order. He would point out that while passing the order, all that is mentioned is that there is likelihood of the externnee committing offences, and the externment authority has not noted that despite executing a bond, he has not committed any crimes thereafter. The learned counsel submits that the live link between the last prejudicial act and the date of externment will get snapped and on that sole ground, the order is vitiated.

5. In response, Sri. K.A. Anas, the learned Public Prosecutor, pointed out that some minimal delay has occurred in submitting the proposal as the authority had to collect the details regarding the prejudicial activities. It is urged that unlike an order of detention under Section 3 of the Act, in a proceeding under Section 15 of the KAA(P) Act, the principles of natural justice will have to be complied with and therefore, some delay is inevitable. To substantiate the said contention, reliance is placed on the observations in **Stalin C.V v. State of Kerala & Others**¹. Referring to the observations in **Thejas v. Inspector General of Police, Kannur Range**², it is urged that the initiation of proceedings under Section 107 of the Cr. P.C. operates on a different plane, and therefore, the registration of a fresh crime after

¹ [2011 (1) KHC 852]

² [2015 (3) KHC 656]



such proceedings is not a requirement.

6. We have carefully considered the submissions advanced and have perused the records.

7. The records made available before us reveal that the petitioner was categorized as a “known rowdy” due to his involvement in four cases.

8. The first contention of the petitioner is that the order is vitiated on account of the long delay in passing the order. Section 15 of the KAA(P) Act confers authority upon the District Magistrate or a police officer of the rank of Deputy Inspector General or above to restrict a person from entering a particular area for up to one year. The person can also be ordered to report his movements within the State, as outlined in Section 15(1)(b). This power is exercised when the authority, based on credible materials arrives at the objective satisfaction that the proposed externee satisfies the criteria of being categorized as a ‘known goonda’ or ‘known rowdy’ on account of his continuous involvement in prejudicial activities and also the likelihood of him continuing to involve in such anti-social activities. Before issuing such an order, the proposed externee is entitled to notice so that he can raise his objections to the issuance of such an order. It needs to be borne in mind that the purpose of issuing an externment order is preventive and it aims to remove the individual from the area where he is perpetrating his anti-social activities so that peace and order can be maintained in the larger interest and welfare of the public. It is therefore crucial that the live link between the individual's last prejudicial



activity, the proposal for externment, and the final order is maintained to ensure that the process is justified, and timely and the ultimate objective is served.

9. In the context of an externment order passed invoking the provisions of Section 56(1)(a) of the Maharashtra Police Act, 1951, the Apex Court in **Deepak v State of Maharashtra**³ has observed as follows:

“10. There cannot be any manner of doubt that an order of externment is an extraordinary measure. The effect of the order of externment is of depriving a citizen of his fundamental right of free movement throughout the territory of India. In practical terms, such an order prevents the person even from staying in his own house along with his family members during the period for which this order is in subsistence. In a given case, such order may deprive the person of his livelihood. It thus follows that recourse should be taken to Section 56 very sparingly keeping in mind that it is an extraordinary measure.”

10. In **Rahmat Khan alias Rammu Bismillah Vs. Deputy Commissioner of Police**⁴, the Apex Court has held that in view of the scheme of Maharashtra Police Act, 1951 the fundamental rights of the citizens guaranteed under Article 19(1)(d) to move freely throughout the territory of India and (e) to reside and settle in any part of the territory of India cannot be taken away on frivolous grounds. In **Pandharinath Shridhar Rangnekar v. Dy. Commissioner of Police, State of Maharashtra**⁵, it was held that though an order of

³ [2022 SCC online SC 99]

⁴ [(2021) 8 SCC 362]

⁵ [1973 (1) SCC 372]



externment makes a serious inroad on personal liberty, such restraints have to be suffered in the larger interests of society.

11. In **Abdul Latif Abdul Wahab Sheikh v. B.K. Jha**⁶, concerning a detention order, the Apex Court noted that procedural requirements are the sole safeguards available to a detainee, as the court is not expected to question the subjective satisfaction of the detaining authority. Accordingly, procedural requirements must be strictly adhered to in order to preserve the liberty of the subject and the constitutional rights guaranteed in that regard.

12. In view of the fact that an order of externment makes serious inroads into the personal liberty of a citizen, the authority initiating proceedings under Section 15 of the KAA(P) Act must clearly demonstrate that the order is passed after proper satisfaction. The authority must assess the propensity of the individual to engage in criminal activity, the gravity of past offences, and the likelihood of future offences in the area(s) from which the person is to be externed. Furthermore, the principles of natural justice are to be complied with, and the externee must be afforded a reasonable opportunity to respond to the allegations. The externment order should reflect the authority's careful consideration of the evidence and material available to them.

13. In the present case, the last prejudicial act was committed by the petitioner on 21.10.2024. The offence was bailable. A proceeding under Section

⁶ [(1987) 2 SCC 22]



126 of the BNSS was initiated against the petitioner, and he had executed a bond for keeping peace for a period of one year on 27.03.2025. It was only on 09.04.2025 that a report was submitted by the District Police Chief seeking the initiation of externment proceedings under the KAA(P) Act. The externment order was finally issued on 09.05.2025, about 199 days after the last prejudicial act or six months and seventeen days. The fact that the externment order was issued after a period of six months, would make it clear that if the authorities were genuinely concerned to prevent anti-social activities, prompt action would have been taken. The only explanation offered is that much time was required to collect the records relating to the four crimes in which the petitioner was involved. The said explanation cannot withstand scrutiny as the entire police records have been digitised in the State, and any information with regard to the pending crimes can be obtained with the click of a mouse. Furthermore, the records reveal that the externnee had executed a bond before the SDM Court for maintaining peace. There is no case for the respondents that the petitioner committed any prejudicial act thereafter. Insofar as the execution of the bond is concerned, the only explanation in the order is that, owing to the past criminal antecedents, it cannot be said that the petitioner may not indulge in prejudicial activities. This is not a sufficient enough reason to pass an order of externment.

14. Whether a person's prejudicial activities justify an externment order, and whether these activities are sufficiently proximate in time to support such an order, depends on the facts of each case. There is no universal rule for determining



proximity based solely on the months elapsed between the offending acts, the submission of the proposal, and the issuance of the externment order. However, undue or unexplained delay between the prejudicial activities and the issuance of the order requires scrutiny by the constitutional court which is entrusted with the task of conducting a judicial review of the order. The Court must determine whether the authority has satisfactorily explained the delay and whether the causal connection between the activities and the order remains intact. Unless satisfactorily explained, such delay casts doubt on the authority's subjective satisfaction. If the true objective was to prevent the externnee from engaging in antisocial activities, the authority would have acted with greater alacrity in both submitting the proposal and issuing the order. In the instant case, we are satisfied that the delay is unexplained and inordinate. In that view of the matter, we are of the considered opinion that the live link between the last prejudicial act and the purposes of the externment order has been snapped in this case.

Resultantly, this Writ Petition is allowed. Ext.P3 externment order No.B3-8096/2025/TSR dated 09.05.2025 issued by the 3rd respondent will stand quashed.

Sd/-

**RAJA VIJAYARAGHAVAN V
JUDGE**

Sd/-

**K. V. JAYAKUMAR
JUDGE**



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APPENDIX OF WP(CRL.) 802/2025

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE REQUISITION DATED 09.04.2025 ALONG WITH THE PRELIMINARY REPORT ANNEXED WITH ALL DOCUMENTS FORWARDED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT HEREIN
- Exhibit P2 THE TRUE COPY OF SHOW CAUSE ISSUED BY THE 3RD RESPONDENT IN PROCEEDINGS NO B3-8096/2025/TSR DATED 22.04.2025 PASSED BY THE 3RD RESPONDENT HEREIN
- Exhibit P3 THE TRUE COPY OF THE ORDER DATED 09.05.2025 IN PROCEEDINGS NO B3-8096/2025/TSR ISSUED BY THE 3RD RESPONDENT
- Exhibit P4 THE TRUE COPY OF THE NOTICE DATED 13.05.2025 SERVED ON THE PETITIONER BY THE 5TH RESPONDENT
- Exhibit P5 THE TRUE COPY OF THE MEDICAL CERTIFICATE DATED 05.12.2024 ISSUED BY HAYATH HOSPITAL