

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V  
&  
THE HONOURABLE MR. JUSTICE G.GIRISH  
WEDNESDAY, THE 31<sup>ST</sup> DAY OF JULY 2024 / 9TH SRAVANA,  
1946  
WP(CRL.) NO. 762 OF 2024

PETITIONER:

SREEJITH, AGED 34 YEARS  
S/O RADHAKRISHNAN, MANNAYIL HOUSE, PADIYOOR  
VILLAGE, PADIYOOR DESOM, THRISSUR, KERALA  
PIN - 680688

BY ADVS. SARATH BABU KOTTAKKAL  
ARCHANA VIJAYAN

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY THE CHIEF SECRETARY,  
HOME DEPARTMENT, GOVERNMENT OF  
KERALA, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DEPUTY INSPECTOR GENERAL OF POLICE,  
OFFICE OF THE DEPUTY INSPECTOR GENERAL  
OF POLICE, THRISSUR RANGE, THRISSUR,  
PIN - 680001
- 3 THE SUPERINTENDENT OF POLICE  
OFFICE OF THE SUPERINTENDENT OF  
POLICE, THRISSUR CITY, THRISSUR  
DISTRICT, PIN - 680003
- 4 THE STATION HOUSE OFFICER  
KATTOOR POLICE STATION, KATTOOR  
THRISSUR, PIN - 680702

SRI.K.A.ANAS, PUBLIC PROSECUTOR.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR  
ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**J U D G M E N T****Raja Vijayaraghavan, J.**

This Writ Petition is filed by the petitioner challenging Ext. P2 order of externment, passed by the 2nd respondent as per which his movements have been restricted and he has been interdicted from entering into Thrissur Revenue District for a period of six months by categorizing him as a 'known rowdy'. Though the said order was challenged before the Advisory Board under Section 15 (2) of the Kerala Anti Social Activities (Prevention) Act, 2007, ('KAAPA' for brevity), the Board has modified the order and limited its duration to three months, by Ext. P4 order.

2. For passing the order of externment, the authorities reckoned four cases in which the detenu got himself involved. The details of the notified cases are as follows:

<b>Sl. No.</b>	<b>Crime No.</b>	<b>Police Station</b>	<b>Sections involved</b>	<b>Date of occurrence</b>	<b>Final report u/s. 173 Cr.P.C</b>	<b>Status of case</b>
1	171/2018	Kattoor	143, 147, 148, 341, 323, 324, 326, 149 of IPC.	14.4.2018	31.10.2018	Pending trial
2	172/2018	Kattoor	143, 147, 148, 341, 323, 324, 308, 149 of IPC.	14.04.2018	19.02.2019	-do-
	86/2019	Kattoor	143, 147, 148, 341, 294(b), 506(ii), 149 of IPC.	03.02.2019	20.02.2019	-do-
4	310/2024	Irinjalakkuda	323, 353, 332, 354 of IPC & Section 4(1) of Kerala Healthcare Service Persons and Healthcare Service Institution (Prevention of Violence and Damage to Property) Act.	26.02.2024	20.04.2024	-do-

3. The records disclose that the Station House Officer, Kattoor Police Station, submitted a report to the District Police Chief, seeking initiation of action against the petitioner under Section 15(1)(a) of the KAAPA. The petitioner has been classified as a 'known rowdy' as defined under Section 2(p)(iii) r/w. Section 2(t) of the KAAPA. The District Police Chief submitted a proposal to the authorized officer, who issued a show-cause notice to the petitioner, asking him to show cause why an order under Section 15(1) shall not be issued against him. The relevant records were also forwarded and he was served with a notice directing him to appear on 30.05.2024. The authorized officer, after hearing the petitioner, issued Ext. P1 order, restricting his entry into Thrissur Revenue District for a period of six months. The order was served to the petitioner on 06.06.2024. This order was later modified by the Advisory Board by partly allowing his petition and the externment period was reduced to three months.

4. Sri. Sarath Babu, the learned counsel, submitted that Exts. P1 and P2 orders are liable to be set aside on account of the long and unexplained delay in issuing the order, as according to him, there exists no live link between the last prejudicial activity and the externment order. The learned counsel would urge that the cases in which the petitioner got himself involved would reveal that those cases involve violation of law and order, and if that be the case, his activities would not fall within the ambit of anti-social activities as defined under the Act. It is further submitted that in between the third and fourth crimes, there has been an interval of more than five years and this aspect of the matter was not considered by the authorized officer.

According to the learned counsel, the subjective satisfaction arrived at by the authorized officer cannot therefore be said to have been entertained properly based on the materials placed before the authority. It is further submitted that the petitioner is a Ward Member of the Padiyoor Grama Panchayat and the crimes registered against him are politically motivated. It is urged that the order has been passed with a view to destroying the political future of the petitioner. It is contended that Crime No. 310 of 2024 registered at the instance of a Medical Practitioner is a false case. The complainant in the instant case is a lady, with whom the petitioner was in love, and when differences in opinion arose, a frivolous complaint was lodged.

5. Sri. K. A Anas, the learned Senior Public Prosecutor refuted the submissions of the learned counsel. It is submitted that despite being a Ward Member of a Panchayat, he has been constantly getting involved in crimes that involve acts prejudicial to the maintenance of public order. It is submitted that the petitioner got himself involved in three cases under the IPC and the last case involved the trespass into a hospital and man-handling of a Lady Doctor. It is submitted that bail was granted to the petitioner on 15.03.2024, in Crime No. 310 of 2024 of the Irinjalakuda Police Station, and it was thereafter that the proposal to initiate externment under Section 15 of the KAAPA, was put in motion. It was after getting the details of the crime, in which the detenu was involved, that a preliminary report was submitted before the Deputy Inspector General of Police on 15.05.2024 and therefore there is no undue delay. It is further submitted that the last crime was committed by the petitioner by violating the conditions in the bail order

granted in the earlier crimes. The authority has clearly noted that the initiation of proceedings under the KAAPA is warranted to rein in the anti-social activities of the petitioner. It is further submitted that there is a live and active link between the last prejudicial act and the order of externment.

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

7. A perusal of the crimes in which the petitioner got involved would reveal that during the last seven years, he has got himself involved in four cases. The final report has been laid out in all the four cases. The cases in which the petitioner got himself involved are offences causing grievous hurt, an attempt to commit culpable homicide not amounting to murder, and an attack on a lady Doctor in a Hospital. Admittedly, the petitioner herein is a Ward Member of the Panchayat. In that view of the matter, the objective satisfaction arrived at by the authority to classify the petitioner as a 'known rowdy' is clearly based on the qualification acquired by the petitioner on account of his involvement in prejudicial acts.

8. On the basis of an objective assessment of the material on record, the authority is required to record its subjective satisfaction that the restriction should be imposed for a specific period. The order of externment must also disclose an application of mind by the competent authority and the order must record its subjective satisfaction about the necessity of passing an order of externment for the maximum period of one year, on the basis of the materials on record. It is well settled that subjective satisfaction entertained

by the authority is not justiciable. This Court does not sit in appeal in proceedings under Article 226 of the Constitution of India over the decisions taken by the authority on the basis of the materials placed before the authority as to the initiation of proceedings. The short area of jurisdiction is to ascertain whether subjective satisfaction is entertained properly on the basis of materials placed before the authority. If the entertainment of the latter subjective satisfaction is vitiated by mala fides, by the total absence of materials, or by reference to and reliance on materials which cannot legally be taken note of, certainly the powers of judicial review vested in this Court can be invoked. The order of detention on the basis of such alleged subjective satisfaction can be set aside. But, certainly, if there are materials, it is not open to this Court to sit in appeal over the subjective satisfaction entertained by the authority. (See: **Ibrahim Bachu Bafan and Another v. State of Gujarat and Another**<sup>1</sup>).

9. We have reviewed the externment order dated 31.5.2024. The authority has documented all crimes, the initiation of a rowdy history sheet, and the commencement of Section 107 of the Cr.P.C. proceedings against the individual and it was after considering all relevant aspects, that the authority arrived at the requisite subjective satisfaction. We do not think that subjective satisfaction is vitiated by mala fides by the total absence of materials or by reference to and reliance on materials that cannot legally be taken note of. Furthermore, the truthfulness or otherwise of the prosecution allegations cannot be determined by the jurisdictional authority, as this falls within the

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<sup>1</sup> [1985 (2) SCC 24]

realm of the concerned court. Based on the externee's past and current conduct and the available materials, the authority concluded that an order under Section 15(1) of the KAAPA was necessary to prevent the detenu, who claims to be a Ward Member of the Grama Panchayat, from engaging in anti-social activities as defined by the Act. Rather than serving as a role model for other citizens, the individual has taken the law into his own hands and committed crimes. Additionally, the Advisory Board, after thoroughly considering the matter, has reduced the period of externment while imposing appropriate conditions.

10. In **Benoy @ Gillappi v. State of Kerala and Ors.**<sup>2</sup>, this Court had held as follows in paragraph No. 17 of the judgment:

"KAAPA is enacted to prevent as well to have effective control over anti - social activities of persons indulged in such activities, to protect the community or the public at large free from threat or danger by the unruly behavior of such persons. The order was passed to avoid the presence of the petitioner at a place he is having acquaintance and the imperative need to restrict his movement in the area for the welfare of the society at large is abundantly clear from the records and that such a decision was taken by the authority based on the antecedents or past conducts of the petitioner in the wake of the surrounding circumstances. As the prime intention of the Act is to prevent or control anti - social activities by such persons who fall within the sweep of 'Known goonda' or 'Known rowdy', for the safety of the public, the authority is vested with power to take tough and stringent decisions giving utmost importance to the welfare of society than the private right of an individual, restricting his free

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<sup>2</sup> [2018 (1) KHC 348]

movements in particular and specified areas to intercept him before he commits further unlawful acts as an anticipatory measure.”

11. We are of the view that the petitioner has not made out any case for interference.

This Writ Petition is dismissed.

Sd/-

**RAJA VIJAYARAGHAVAN V,  
JUDGE**

Sd/-

**GIRISH.G,  
JUDGE**

**PS & APM/2/08/24**



APPENDIX OF WP (CRL.) 762/2024

PETITIONER EXHIBITS

Exhibit P1	THE TRUE PHOTOCOPY OF THE REPLY FILED BY THE PETITIONER TO THE SHOW CAUSE NOTICE DATED 30.05.2024
Exhibit P2	THE TRUE PHOTOCOPY OF THE EXTERNMENT ORDER NO. B3-9548/2024/TSR DATED 31.05.2024 PASSED BY THE 2ND RESPONDENT AGAINST THE PETITIONER
Exhibit P3	THE TRUE PHOTOCOPY OF THE PETITION SUBMITTED BY THE PETITIONER DATED 10.06.2024 BEFORE THE KAA(P) ADVISORY BOARD
Exhibit P4	THE TRUE PHOTOCOPY OF THE ORDER DATED 25.06.2024, BY THE ADVISORY BOARD KAAPA
Exhibit P5	THE TRUE PHOTOGRAPHS OF THE PETITIONER AND VICTIM IN CRIME NO 310/2024 OF THE IRINJALAKKUDA POLICE STATION.