

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 33612 of 2015 (B)

PETITIONER(S):

AYISHA, AGED 60 YEARS
W/O.MUHAMED KUNHI
ATHINBAL HOUSE, AJANOR VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S):

1. STATE OF KERALA REPRESENTED BY SECRETARY
MINISTRY OF HOME AFFAIR
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
- 2.THE DISTRICT MAGISTRATE AND DISTRICT COLLECTOR
THRISSUR, COLLECTORATE, AYANTHOLE
THRISSUR 680 001.
3. THE DISTRICT SUPERINTENDENT OF POLICE
THRISSUR, COLLECTORATE, AYYANTHOLE
THRISSUR 680 001.
4. SUB INSPECTOR OF POLICE
HOSDURG POLICE STATION
KANHANGAD, KASARAGOD DISTRICT 671 329.
5. SUB INSPECTOR OF POLICE
BEKAL POLICE STATION
KASARAGOD DISTRICT 671 329.

R BY GOVERNMENT PLEADER SMT.KOCHUMOL KODUVATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C) 33612/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: TRUE COPY OF THE FIR REGISTERED BY THE FOURTH RESPONDENT
IN CRIME NO.783/2014.

EXT.P2: TRUE COPY OF THE PRELIMINARY ORDER DATED 21.1.2015 IN
M.C.NO.40/2015 OF THE SECOND RESPONDENT.

EXT.P3: TRUE COPY OF THE FIR IN CRIME NO.119/2014.

EXT.P4: TRUE COPY OF THE AFFIDAVIT FILED BY THE DEFACTO COMPLAINANT IN
CRL.M.C.NO.5222/2015 BEFORE THIS HON'BLE COURT.

EXT.P5: TRUE COPY OF THE ORDER DATED 11.8.2015 IN CRL.M.C.NO.5222/2015.

EXT.P6: TRUE COPY OF THE FIR REGISTERED BY HOSDURG POLICE IN CRIME
NO.711/2014.

EXT.P7: TRUE COPY OF THE STATEMENT FILED BY THE SUB INSPECTOR OF
POLICE IN CRL.M.C.NO.6334/2015.

EXT.P8: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE
THE FIRST RESPONDENT.

EXT.P9: TRUE COPY OF THE ABOVE LETTER BEARING NO.63910/S.S.A1/15/HOME
DATED 20.8.2015.

//TRUE COPY//

PA TO JUDGE

K.T.SANKARAN & RAJA VIJAYARAGHAVAN.V., JJ.

W.P.(C) No.33612 of 2015

Dated this the 4th day of November, 2015

JUDGMENT

K.T.Sankaran, J.

When the Writ Petition came up for admission, we expressed a doubt whether the Writ Petition can be maintained by the petitioner, who is the mother of the person against whom an order of detention under the Kerala Anti-Social Activities (Prevention) Act has been made. The learned counsel for the petitioner submitted that without getting a copy of the order of detention, the person concerned would not be able to effectively challenge the order of detention at its pre-execution stage. In **Nazarudeen v. State of Kerala (2015(3) KLT 148)**, a Division Bench of this Court held that when an order of

detention is challenged at its pre-execution stage, the Court can consider that challenge and, for that purpose, can direct production of a copy of the order of detention by the respondent concerned. That is for the purpose of satisfying whether the challenge against the order of detention at the pre-execution stage can be entertained. A party against whom an order of detention is passed cannot insist that he should get a copy of the order of detention before he is arrested, in order to enable him to challenge the same under Article 226 of the Constitution of India.

Placed in the situation, the learned counsel for the petitioner sought permission to withdraw the Writ Petition without prejudice to the rights of the petitioner's son to file appropriate Writ Petition. Permission is granted and the Writ Petition is dismissed as withdrawn. It is made clear that

withdrawal of this Writ Petition will not affect the rights of the son of the petitioner, who is proposed to be detained under the KAAPA to approach this Court for appropriate reliefs.

**K.T.SANKARAN
JUDGE**

**RAJA VIJAYARAGHAVAN.V.
JUDGE**

csi