

Sheeja Vs. The Inspector of Police

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Court : Kerala

Decided On : Dec-09-2014

Judge : Honourable Mr.Justice Thottathil B.Radhakrishnan

Appellant : Sheeja

Respondent : The Inspector of Police

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH TUESDAY, THE 9TH DAY OF DECEMBER 2014 18TH AGRAHAYANA, 1936 WP(C).No. 27660 of 2014 (F) ----- PETITIONER(S): ----- SHEEJA,

AGED 43 YEARS W/O.NASIRUDHEEN, SHINAS VILLA, NEAR MAHILA SAMAJAM KAVALAYOOR PO, THIRUVANANTHAPURAM. BY ADVS.SRI.NAGARAJ NARAYANAN SRI.SAIJO HASSAN SRI.BENOJ C AUGUSTIN SRI.PRATHAP PILLAI SRI.SEBIN THOMAS SRI.VIVEK V. KANNANKERI SRI.VISHNU BHUVANENDRAN RESPONDENT(S):

----- 1. THE INSPECTOR GENERAL OF POLICE THIRUVANANTHAPURAM RANGE OFFICE OF THE INSPECTOR GENERAL OF POLICE THIRUVANANTHAPURAM 695001.

2. THE DISTRICT POLICE CHIEF THIRUVANANTHAPURAM RURAL, DISTRICT POLICE OFFICE, THIRUVANANTHAPURAM - 695 001.

3. DEPUTY SUPERINTENDENT OF POLICE ATTINGAL - 695 103.

4. SUB INSPECTOR OF POLICE KADAKKAVOOR POLICE STATION, KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT - 695 306 5. VINOD KUMAR ADDITIONAL SUB INSPECTOR OF POLICE KADAKKAVOOR POLICE STATION, KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT - 695 306. R1-4 BY ADV. DIRECTOR GENERAL OF PROSECUTION R1-R4 BY ADV.KOCHUMOL KODUVATH, SR.GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON0912-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 27660 of 2014 (F) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1 : COPY OF THE RESTRICTION

ORDER

DATED88/2014 ISSUED UNDER SECTION15OF KAAPA ISSUED BY THE IST RESPONDENT. EXHIBIT P2 : COPY OF THE COMMUNICATION ISSUED BY THE IST RESPONDENT TO THE2D RESPONDENT DATED88/2014. EXHIBIT P3 : COPY OF THE COMPLAINTS DATED301/2014 AGAINST THE5H RESPONDENT BEFORE THE ADDITIONAL DIRECTOR GENERAL OF POLICE (INTELLIGENCE). EXHIBIT P4 : COPY OF THE COMPLAINTS DATED301/2014 AGAINST THE5H RESPONDENT BEFORE INSPECTOR GENERAL OF POLICE, SOUTHERN RANGE. EXHIBIT P5 : COPY OF THE COMPLAINTS DATED301/2014 AGAINST THE5H RESPONDENT BEFORE THE KERALA POLICE COMPLAINT AUTHORITY. EXHIBIT P6 : COPY OF THE FIR IN CRIME NO.272/2013 DATED204/2013 OF KADAKKAVOOR POLICE STATION. EXHIBIT P7 : COPY OF THE FIR IN CRIME NO. 45/2014 DATED111/2014 OF KADAKKAVOOR POLICE STATION. EXHIBIT P8 : COPY OF THE FIR IN CRIME IN1152014 DATED12/2014. EXHIBIT P9 : COPY OF THE FIR IN CRIME NO.643/2014 DATED136/2014. EXHIBIT P10 : COPY OF THE FIR IN CRIME NO.273/2014 UNDER SECTION107Cr.PC FILED BEFORE THE SUB DIVISIONAL MAGISTRATE. EXHIBIT P11 : COPY OF THE LETTER DATED166/2014 ISSUED BY THE4H RESPONDENT TO THE3D RESPONDENT TO INCLUDE THE PETITIONER IN THE ROWDY HISTORY SHEET. EXHIBIT P12 : COPY OF THE PROCEEDINGS DATED186/2014 OF THE3D

RESPONDENT INCLUDING THE PETITIONER IN THE ROWDY HISTORY SHEET. EXHIBIT P13 : COPY OF THE ROWDY HISTORY SHEET AGAINST THE PETITIONER. EXHIBIT P14 : COPY OF THE LETTER DATED 96/2014 OF THE 4H RESPONDENT ISSUED TO THE INSPECTOR OF POLICE, KADAKKAVOOR POLICE STATION. WPC2766014 EXHIBIT P15 : COPY OF THE LETTER DATED 256/2014 ISSUED BY THE INSPECTOR OF POLICE TO THE 3D RESPONDENT ALONG WITH REPORT OF THE 4H RESPONDENT TO THE 2D RESPONDENT. EXHIBIT P16 : COPY OF THE LETTER DATED 286/2014 ISSUED BY THE 3D RESPONDENT TO THE 2D RESPONDENT. EXHIBIT P17 : COPY OF THE REPRESENTATION DATED 148/2014 UNDER SECTION 152) OF KAAPA BEFORE THE ADVISORY BOARD, KAAPA SUBMITTED BY THE PETITIONER. RESPONDENT(S)' EXHIBITS ----- NIL //TRUE COPY// PA TO JUDGE. jg THOTTATHIL B.RADHAKRISHNAN & BABU MATHEW P. JOSEPH, JJ.

..... WP(C) No.27660 of 2014
..... Dated this the 9th day of December, 2014.

JUDGMENT

Thottathil B.Radhakrishnan, J.

1.We have heard the learned counsel for the petitioner and the learned public prosecutor. 2.This writ petition is filed challenging an externment order issued under Section 15(1) of the Kerala Anti-social Activities (Prevention) Act, 2007, "KAAPA", for short. 3.The substance of the allegation against the petitioner is that she is covered by different first information reports and final reports for occurrences which are recorded as Crime Nos.272/2013, 45/2014, 115/2014 and 643/2014 of Kadakkavoor Police Station, three of which include certain allegations making reference to the provisions of the Kerala Money Lenders Act, 1958. That apart, we see from the records that proceedings under Section 107 of the WPC2766014 -2- Code of Criminal Procedure, "Code", for short, has been initiated against the petitioner as Crime No.273/2014 of the Kadakkavoor Police Station.

4. Hearing the learned counsel for the petitioner and the learned public prosecutor, we see that the occurrence, which has led to registration of Crime No.272 of 2013, is described as spreading over a period of 3 to 4 years. That includes allegation of demand of amounts which were due under a money transaction; the allegation as to threat of physical assault, etc. But, the span of those transactions, including the allegation as to the threat of physical assault, is spread out in such a manner that it does not by itself inspire confidence at this point of time to act on the final report following investigation, since that is a matter yet to come for trial and the proceedings of registration of the FIR itself was generated on a court referring a private complaint under Section 156(3) of the Code. Be that as it may, we have looked into the allegations in Crime No.115/2014. That relates to occurrence, WPC2766014 -3- which are away from the provisions of the Kerala Money Lenders Act, and about a threat held out on account of the refusal of the complainant to lodge proceedings against the jurisdictional police. Taking into consideration, the substance of the four criminal cases noted above, which relate to registration of offences punishable under different penal provisions, we see that the exercise of jurisdiction under Section 107 of the Code has been made. If that were so, those proceedings should have been led to its logical end requiring the writ petitioner to execute bond and to maintain good behaviour. Such procedure was not adopted. That position notwithstanding, it also has not been recorded in the impugned order of restriction that proceedings under Section 107 of the Code, which has already been invoked, is insufficient to ensure good behaviour from the petitioner. More over, there is also nothing to show that the authority, which issued Ext.P1 order, had adverted to or considered any of the materials in relation to Section 107 proceedings. With this, we have taken note of the fact that the petitioner, a woman, has been WPC2766014 -4- kept out of her home district for nearly four months from now. We see no ground to continue the externment order. For the aforesaid reasons, without expressing anything finally on the merits touching the contents of the different criminal cases, the externment order is ordered to stand discharged from today and the petitioner is directed to report to the Circle Inspector of Police, Kadakkavoor Police Station on every Thursday at 11 a.m., till the term of Ext.P1 expires. We leave open the challenge of the petitioner against inclusion in the rowdy list, to be raised in appropriate proceedings.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE) (BABU MATHEW P. JOSEPH, JUDGE) jpg

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