
(2013) 09 BOM CK 0242

In the Bombay High Court

Case No : Criminal Writ Petition No. 277 of 2013

Manorama

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 238

Hon'ble Judges : Z.A. Haq, J;B.R. Gavai, J

Bench : Division Bench

Advocate : Subhed A.R, for the Appellant; M.K. Pathan, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Z.A. Haq, J.—Rule returnable forthwith. Heard Mr. Subhedar, learned Advocate for petitioner and Mr. M.K. Pathan, learned Additional Public Prosecutor for respondents. The challenge is to the order of externment passed by the Sub-Divisional Magistrate, Wardha dated 30.7.2012 and the appellate order passed by the Secretary (Special), Home Department, Government of Maharashtra dated 28.3.2013 externing the petitioner from the districts of Wardha, Amravati and Yavatmal for two years.

2. Perusal of the impugned order shows that all the 51 prosecutions, on which reliance is placed for passing the impugned orders, are under the Bombay Prohibition Act. It need not be stated that it is well settled that an order of externment cannot be passed taking into consideration the prosecutions under the Bombay Prohibition Act. The orders suffer from patent illegality and are unsustainable in law. In view of the above, the petition is allowed. The impugned orders are quashed. Rule is made absolute in terms of prayer clause (1). There will be no order as to costs.