
(2013) 10 BOM CK 0138

In the Bombay High Court

Case No : Criminal Writ Petition No. 468 of 2013

Sheikh Dastagir

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 21-10-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 171

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

Bench : Division Bench

Advocate : A.J. Thakkar, for the Appellant; M.K. Pathan, APP, for the Respondent

Final Decision : Allowed

Judgement

Z.A. Haq, JJ.—Heard. Rule. Rule made returnable forthwith.

2. The petitioner has challenged the order of externment, by which he is externed from six districts. The challenge is on three grounds; viz. i) that the impugned order is in breach of the principles of natural justice; ii) that the impugned order is excessive inasmuch as there is no reason for externing the petitioner from six districts and iii) that there is no nexus between the impugned order and the object to be achieved as the said impugned order is passed after 15 months after the last offence registered against him.

3. Shri M.K. Pathan, learned APP has opposed the submissions made by the learned counsel for the petitioner. The learned APP has pointed out that the petitioner was given show cause notice and was given an opportunity to defend himself and, therefore, it cannot be said that the impugned order is violative of the principles of natural justice. The learned APP submits that the learned Authority has considered the material rightly and has passed the impugned order taking into consideration the interest of the public at large.

4. The last offence bearing No. 3050/2011 is said to have been registered on 12th June, 2011. The show cause notice is issued on 3rd March, 2012 i.e. almost

after nine months of the last offence registered against the petitioner and the impugned order is passed almost after 15 months. We find that in view of this fact, the impugned order has no nexus with the object to be achieved.

5. By the impugned order the petitioner is externed from six districts viz. Jalgaon, Akola, Washim, Jalna, Parbhani and Amravali. All the offences against the petitioner are registered with Chikhali Police Station, Dist Buldana. The learned Authority has given no reason for externing the petitioner from the six districts. We find that the order of externment is excessive in that regards. Shri Thakkar, the learned counsel for the petitioner has rightly relied on the Judgment in the case of 2000 (3) ALLMR 578 (Bom.) in support of his submissions. Moreover, we find that the offences at Sr. Nos. 2 and 5 are under the Bombay Police Act and could not have been considered for passing externment order. The offences from Sr. Nos. 1 to 5 are between the year 2005-2007 and are state and not relevant for passing the externment order. In view of the above, we pass the following order.

ORDER

The petition is allowed. The impugned order is quashed. Rule is made absolute in terms of prayer clauses (1) and (2). No order as to costs.