
(2013) 02 BOM CK 0184

In the Bombay High Court

Case No : Criminal Writ Petition No. 496 of 2012

Sudhakar Raghunath Juware

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 07-02-2013

Acts Referred:

Bombay Police Act, 1951 — Section 56

Citation : (2013) ALLMR(Cri) 2739

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : G.N. Khanzode, for the Appellant; D.B. Patel, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M.L. Tahaliyani, J.—Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties. Heard Shri G.N. Khanzode, learned counsel for the petitioner and Shri D.B. Patel, learned Additional Public prosecutor for respondents 1 to 3. Perused the impugned order. Impugned order on the face of it is not sustainable. Proposal for externment was submitted to the competent authority in the year 2008. The inquiry was ordered in the month of September 2008. The inquiry report was submitted on 4th February 2011. Show cause notice was issued to the applicant on 24th March 2011. Applicant had appeared before the competent authority on 5th May 2011. The externment order had been passed on 30th August 2012. If one goes to the chronology of events, it would show that no urgency was shown or there was no anxiety on the part of either Inquiry Officer or on the part of the Competent Officer to see that necessary steps were taken against the applicant as early as possible. The delay caused on various stages during the course of inquiry and further proceedings has in fact vitiated the order itself.

2. Moreover, the externment order is based on the pendency of cases under the Bombay Prohibition Act. This Court in the matter of Prashant Shashikant Mandal

Vs. State of Maharashtra & Others in Criminal Writ petition No. 520 of 2012 decided on 4th February 2013, has expressed the view that the externment order on the basis of pendency of the cases under Bombay Prohibition Act is foreign to Section 56 of the Bombay Police Act. In view thereof, the Criminal Writ petition needs to be allowed. Hence I pass the following order:

Writ Petition is allowed.

The impugned order dated 30th August, 2012 directing the petitioner to remove himself from Gadchiroli and Chandrapur districts for the period of two years is set aside. Petition stands disposed of accordingly.

Rule is made absolute accordingly.