



(1)

Cri.WP-1722-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1722 of 2024

1. Deepak Ramesh Chetwani
Age:24 years, Occu: Business
2. Ramesh Jethanand Chetwani
Age: 58 years, Occu: Business

Both are R/o. Khushi Niwas,
Plot No.98, Sindhi Colony, Jalgaon,
Ta. & Dist. Jalgaon.

...PETITIONERS

VERSUS

1. The Divisional Commissioner,
Nashik Division, Nashik.
2. The Superintendent of Police
Division Jalgaon, Dist. Jalgaon.
3. The Sub-Divisional Officer,
Jalgaon, Division Jalgaon.
4. The Police Inspector,
M.I.D.C. Police Station,
Jalgaon, Dist. Jalgaon.

...RESPONDENTS

Mr. A. M. Reddy h/f Mr. B. S. Deshmukh and Mr. A. M. Pawar, Advocates
for Petitioners.

Mr. R. B. Dhaware, APP for Respondent No.1 to 4-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 25th JUNE 2025.
PRONOUNCED ON: 14th JULY 2025.

ORDER :-

1. Heard Mr. Reddy, the learned Advocate for the Petitioners, and Mr. Dhaware, the learned APP for Respondent-State. The matter is heard finally at the stage of admission with the consent of the parties.
2. The petition arises out of a judgment and order dated 20th September 2024, passed by the learned Divisional Commissioner, Nashik, in Externment Appeal No.112 of 2024, thereby confirming the order dated 3rd July 2024, passed by the Superintendent of Police, Jalgaon Division, externing the petitioners for one year from Jalgaon district under the provisions of Section 55 of the Maharashtra Police Act, 1951.
3. The present petitioners face criminal cases and have a criminal history. The concerned authority i.e. Police Inspector, MIDC Police Station, Jalgaon, therefore, prepared a report and sent a proposal to the

Respondent No.2 to take externment action against the petitioners. Respondent No.2, on receiving the proposal, issued a notice to the petitioners on 30th April 2024 calling for an explanation as to why externment action should not be taken. The said notice was replied on 8th May 2024. By communication dated 29th May 2024, the respondent No.2 again issued show cause notice calling for explanation. By communication dated 10th June 2024, the petitioners replied the notice. The petitioners also attended the proceeding. It is thereafter order dated 3rd July 2024 came to be issued externing the petitioners from district Jalgaon for one year.

4. While taking action, following offences were considered by the authorities:

Sr. No.	Police Station	C.R. No.	Sections	Case No.	Status
1.	MIDC	78/2019	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	RCC No.278/2019	Pending
2.	MIDC	79/2021	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	RCC No. 476/2021	Pending.
3.	MIDC	696/2022	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of	RCC No.166/	Pending

			Food Safety and Standards Act.	2023.	
4.	MIDC	18/2024	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	-----	Under Investigation.
5.	Bhusawal Bajar Peth	472/2018	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	RCC No.122/2019.	Pending
6.	MIDC	683/2018	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	RCC No.697/2019.	Pending.
7.	MIDC	185/2023	Sec.328, 188, 272, 273 of the IPC and Section 26/2)(1), 58, 59 of Food Safety and Standards Act.	RCC No.341/2023	Pending

5. The petitioners, being aggrieved by the said order, approached the learned Divisional Commissioner by filing an appeal. However, the learned Divisional Commissioner confirmed the order passed by Respondent No.2.

6. Mr. Reddy, the learned Advocate for the petitioners, vehemently argued that there was no sufficient material to take action of externment. The cases, which were considered, were not serious in nature. There was no threat to the lives of people in the area. No case is made out showing that the petitioners were creating law and order situation. He contended that before passing the order, it was necessary

for respondent No.2 to record subjective satisfaction. Without recording the same properly, the action is taken. He, therefore, prays for setting aside the impugned judgment and order by quashing the action of externment.

7. During the course of argument, the learned Advocate for the petitioners relied upon the following judgments:

- (i) *Pandharinath Shridhar Rangnekar Vs. Dy. Commissioner of Police, State of Maharashtra.*¹;
- (ii) *Deepak s/o. Laxman Dongre Vs. The State of Maharashtra and Ors.*²;
- (iii) *Rehmat Khan @ Rammu Bismillah Vs. Deputy Commissioner of Police.*³

8. Mr. Dhaware, the learned APP vehemently submitted that the conduct of the petitioners necessitated the action. The authorities have rightly considered that various offences are pending against the petitioners. These offences were against body. He thus prays for rejection of the writ petition.

1 (1973) 3 S.C.R.

2 (2022) 8 S.C.R. 35

3 (2021) 8 SCC 362

9. The Hon'ble Apex Court, in the case of ***Pandharinath Rangnekar*** (supra), dealt with Sections 56 and 59 of the Bombay Police Act, in the matter of passing of externment orders. It was held that it is the duty of the authorities to inform the general nature of the material allegations to the person against whom action is sought to be taken. The order should be a reasoned order and the externment order should be restricted only to the areas chosen for unlawful activities. In that case, after considering various judgments, the Hon'ble Apex Court set aside the order. The High Court had limited the area of externment and the Hon'ble Apex Court recorded that the view taken by the High Court was accepted as correct.

10. In the case of ***Deepak Dongre*** (supra), the Hon'ble Apex Court considered the externment action in the light of Article 19(1)(d) of the Constitution of India. It is held that an action of externment must stand the test of reasonableness as contemplated by clause (5) of Article 19 of the Constitution of India. In that case, some of the offences were considered to be stale offences, without any live link between the said offences and the necessity of passing an order of externment. In that

case, offences relied upon were from the year 2013 and 2018, whereas the action was taken in the year 2020. Two offences of year 2020, were against two individuals and there was no material to show that witnesses were not coming forward to give evidence. In that view, the Hon'ble Apex Court held that the action of externment deserves to be quashed and set aside.

11. In the case of ***Rahmat Khan*** (supra), the Hon'ble Apex Court considered the object of the externment order. The Court found that the allegation of demand for ransom by threat, prima facie, appears to have been concocted and just to give the complaint a colour of intense gravity. The appeal was allowed. Externment order came to be set aside. Though the petitioner has relied upon various other judgments, this Court finds that it is not required to go into all the judgments. Suffice it to note that, in the present case also, this Court finds that the order suffers from the voice of exercise of excessive jurisdiction without there being sufficient material on record to justify the action of externment.

12. Looking to the offences which are considered, all offences are

mainly of selling gutkha pan masala, vimal gutkha, which are banned in the State of Maharashtra. There are no bodily offences as such mentioned in the show cause notice. There are no bodily offences pending against them. From the record it is seen that these offences cannot be said to be offences which will cause law and order situation. Petitioners have been acquitted from one of the offences i.e. RCC No.697/2019. Though preventive action was taken against Deepak Chetwani and Ramesh Chetwani that itself would not be sufficient to take such action of externment. The observation that a threat is created to public safety and public health also does not appear to be correct. These offences fall under the Food Safety and Standards Act and cannot be described as creating terror in the mind of people. There is nothing to show that the public are not coming forward to give evidence against the present petitioners. It is also seen that though the notices are issued by the crime branch, the notices show that those are issued from Pahur Police Station. Nothing is shown on record to show that there are offences alleged against these persons at Pahur Police Station. Out of seven offences, petitioners are common in four offences. This itself that

will not make them member of a gang, as it is they are from one family. Considering all above, this Court finds that there was no sufficient material to take action of externment against the petitioner. The impugned action, therefore, deserves to be quashed and set aside. Hence, the following order:

ORDER

- (i) Criminal Writ Petition stands allowed.
- (ii) The impugned order of externment dated 3rd July 2024, passed by the Superintendent of Police, Jalgaon and confirmed by the learned Divisional Commissioner, Nashik Division, Nashik in Externment Appeal No.112/2024 vide order dated 20th September 2024, are hereby quashed and set aside.
- (iii) With this, criminal writ petition stands disposed off.

[KISHORE C. SANT, J.]