

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL WRIT PETITION NO. 939 OF 2015

Anil s/o Sampatarao Tupe,
Age 40 years, Occu: Agril & Social Worker,
R/o Sathe Nagar, Waluj,
Tq. Gangapur, District Aurangabad,
At present C/o Subhash Shantawan Tupe,
R/o Newasa Phata, Tq. Newasa,
District Aurangabad.

... PETITIONER

VERSUS

1. The Police Inspector,
Waluj Police Station, Waluj,
Tq. Gangapur, District Aurangabad.
- 2.. The Assistant Commissioner of Police,
Cantonment Area, Aurangabad.
3. The Deputy Commissioner of Police,
Circle No.1, City Aurangabad,
District Aurangabad.
4. The State of Maharashtra,
Through its Chief Secretary,
Home Department Mantralaya,
Mumbai – 32.
5. The Divisional Commissioner,
Aurangabad, Dist. Aurangabad.

... RESPONDENTS

...
Mr. B. V. Dhage, Advocate for the Petitioner.
Mr. M. M. Nerlikar, APP for the Respondents.
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CORAM : **A. B. CHAUDHARI &
INDIRA K. JAIN, JJ.**

DATE : 02nd September, 2015.

ORAL JUDGMENT: (Per A. B. Chaudhari, J.)

1 Rule. Rule made returnable forthwith. With the consent of the learned counsel for the rival parties, heard finally.

2 With the assistance of the learned counsel for the rival parties, we have perused the impugned orders passed by the Authority as well as Appellate Authority. There were in all six offences, which were the foundation for making the order of externment. Admittedly, from the chart, it is seen that two offences are non-cognizable and in two offences, the Petitioner was acquitted. The remaining two are under Sections 107 and 110 of the Code of Criminal Procedure which are not strictly speaking offences but provisions for preventing actions. That being so, we are of the view that the Authorities have not applied their mind. The orders suffer from non-application of mind as to the material available on record. The learned APP submits that the Petitioner is notorious in the area. If that is so, the Police can continue to take preventive action against

him. Hence, the following order:

ORDER

- I. Criminal Writ Petition No.939 of 2015, is allowed.
- II. Rule is made absolute in terms of prayer clause (B).
- III. No costs.

[INDIRA K. JAIN, J.]

[A. B. CHAUDHARI, J.]

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