

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 356 OF 2017

Shri. Sandeep Bhupal Gosavi	..Petitioner
Versus	
The State of Maharashtra through its Department of Home Affairs and ors.	..Respondents

Mr. Manoj A. Patil, advocate for the petitioner.
Ms. S. D. Shinde, APP for the State.

**CORAM : RANJIT MORE,
DR. SHALINI PHANSALKAR-
JOSHI, JJ.**

DATE : 1st FEBRUARY, 2017.

P. C. :

Heard Mr. Patil, learned counsel for the petitioner and Ms. Shinde, learned APP for the State.

2. By this petition filed under Article 226 of the Constitution of India , the petitioner is challenging the orders dated 8th August, 2016 and 12th January, 2017, passed by the Sub-Divisional Magistrate, Sub-Division- Miraj and Divisional Commissioner, Pune Division, Pune respectively under 56 (1) (a) (b) and Section 60 of the Maharashtra Police Act. By the said orders, the petitioner is externed for a period of three months from Sangli District.

3. The externment orders shows that two CRs are pending against the petitioner and the details of the same are as under :

Sr.No.	C.R.No.	Section	Present Status
01	Sangli Rural 97/2012	IPC-143,147, 148, 149, 323,324,452, 427 Bombay Police Act Section -37(1) violated 135	Sub judice
02	Sangli Rural 92/2015	IPC – 143, 147, 148, 149, 323, 324, 504, 506 Bombay Police Act Section -37(1) violated 135	Under Police investigation

Mr. Patil, learned counsel for the petitioner pointed out that in respect of CR.No.97/2012, the petitioner has already been acquitted. This fact is not disputed by learned APP. So far as CR.No.92/2015 is concerned, it is the case of the petitioner that it is registered by way of cross-complaint.

4. By now it is well settled position of law that in order to extern a person under Section 56(1)(a)(b) of the Maharashtra Police Act, the competent authority must be satisfied that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property or that there are reasonable grounds for believing that such person is engaged in the commission of the offence involving force or violence or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, 1860. It is also settled position that the

competent authority must also be satisfied that the witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, and such satisfaction must be recorded in the notice under Section 59 as well as in the order under Section 56(1)(a)(b) of the Maharashtra Police Act. Having perused the impugned orders, we find that such satisfaction is not recorded therein. In the absence of such subjective satisfaction, the impugned orders stand cannot be sustained and the same are quashed and set-aside. The writ petition is, accordingly, allowed in terms of prayer clause (b) and is disposed of as such.

(DR. SHALINI PHANSALKAR-JOSHI)

[RANJIT MORE, J.]