

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.937 OF 2016

Sheikh Mohammad s/o Sheikh Husain

..VS..

Deputy Commissioner of Police Zone-1, Amravati City, District Amravati and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri A.K. Bhangde, Counsel for the petitioner.
Shri S.S. Doifode, Addl.P.P. for the respondents.

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.**

DATED : APRIL 19, 2017.

Heard learned counsel Shri A.K. Bhangde
for the petitioner and learned Additional Public
Prosecutor Shri S.S. Doifode for the respondents.

Perused reply. Order of externment dated
5.5.2016, passed under Section 56(1)(C) and (Kh) of the
Maharashtra Police Act, 1951, is questioned before this
Court.

Learned counsel Shri S.K. Bhangde for the
petitioner submits that order is excessive inasmuch as
all offences are registered only in Nagpuri-Gate Police
Station and extenrment is from entire Amravati city as
also Amravati rural areas. He further contends that in
first show cause notice dated 1.4.2016, there was no

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reference to any in camera witnesses. The petitioner accordingly submitted reply thereto on 11.4.2016 and in later show cause notice dated 18.4.2016, in camera statements are mentioned. He contends that in camera statements appear to have been procured later on.

Learned Additional Public Prosecutor disputes this. He contends that order as passed shows proper application of mind. He has produced before this Court original record. We have taken out two in camera statements placed in closed envelope and perused the same.

These in camera statements are of date prior to first show cause notice i.e. prior to 1.4.2016. Still they have not figured in that show cause notice. Events mentioned therein are of December 2015 and January 2016 respectively. Most part of those printed statements are identical except in relation to actual incident in the month of December or January. There also *modus operandi* employed is shown to be similar.

As in camera statements are not put to use at the earliest, contention of learned counsel Shri A.K. Bhangde that statements, appear to have been procured later on to suit purpose, is substantiated. If those in camera statements are ignored, last of the Indian Penal Code offences is dated 30.11.2015. Thus, show cause

notice has been issued more than six months thereafter and order of externment is coming about seven months after that offence. The order, therefore, lacks live link with the object to be achieved. The fact that petitioner has been acquitted of first offence i.e. 24.8.2014 also does not find consideration in the impugned order.

All offences are registered only in one police station and still externment for a period of two years has been ordered out of entire Amravati district i.e. both rural and urban parts thereof. In view of judgment of Pappu @ Akhilesh Shivshankar ..vs.. The State of Maharashtra, through Secretary, Home Department, Mantralaya, Mumbai-32 and anr, in Criminal Writ Petition No.23 of 2016 and other connected matters decided on 21.12.2016, we find the order excessive. One of us (B.P. Dharmadhikari, J.) is party to that judgment. Accordingly, we quash and set aside the order of externment dated 5.5.2016.

The criminal writ petition is allowed and disposed as such. No costs.

JUDGE

JUDGE

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