

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL WRIT PETITION No. 4060 OF 2018

Shri Yasir Iqbal Sheikh and others ... Petitioners
Vs
The State of Maharashtra & others ... Respondents

Mr. Shailesh D. Chavan, for Petitioners.
Mr. S. R. Shinde - APP, for Respondent-State.

***CORAM : B. P. DHARMADHIKARI &
SARANG V. KOTWAL, JJ.
Date : 7 December, 2018.***

P.C. :

Rule. Rule made returnable forthwith. By consent taken up for final disposal.

2. Four Petitioners externed, on 21 June 2018 from Satara, Koregaon, Wai and Jaoli Taluka for period of six months are before this Court contending that basic ingredient i.e. being a gang is not satisfied in the present matter. Order of externment dated 21 June 2018 was questioned by them in appeal under Section 60 of the Maharashtra Police Act and Divisional Commissioner, Pune has on 25 July 2018 maintained it. Learned counsel for Petitioners has relied upon Judgment of Division Bench of this Court dated 12 July 2018 in

Criminal Writ Petition No.2454 of 2018 and other connected matters, particularly paragraph nos.23 and 24 thereof. Learned APP is relying upon the order passed by the first authority to show how there are several offences committed together by the present Petitioners.

3. With the assistance of learned counsel, we have perused the record. It appears that between the year 2015 till 2017 about 29 offences are registered against the Petitioner No.1 Yasir Iqbal Sheikh, all are under Section 12(A) of the Maharashtra Prevention of Gambling Act. The Competent Authority has in paragraph 3(c) also looked into 50 offences in which along with gang leader one or more of the Petitioners are parties. Though there is not a single offence in which all four Petitioners together are shown as accused, there are two offences in which three of them are recorded as accused. Gang leader is party in all the matters. The learned counsel for Petitioners submits that in Crime No.156 of 2016 recorded at Shahpur police station, Petitioner Nos.1, 3 and 4 have been acquitted.

4. The judgment of Division bench of this Court mentioned *supra* takes note of fact that there was no case registered collectively against all the members who allegedly constituted the gang or even substantial number of them, here, we have found that on two occasions offences were registered against three members out of total four. In paragraph 24, Division bench has taken note of earlier judgment in case of *Ahammad Mainuddin Shaikh vs The State of*

Maharashtra and anr. in Criminal Writ Petition No.2385 of 2013, decided on 16 August 2013. There again observations are identical. These observations do not imply that unless and until the common offence is registered against all gang members, an inference of gang cannot be reached. In facts presented to it, Division bench found that material was insufficient to arrive at a finding of formation of gang.

5. In present case, the impugned order dated 21 June 2018, looks into all offences committed by gang leader and then also considered offences by him along with other Petitioners. When these charts are perused together, the finding that gang exists cannot be said to be erroneous or perverse. This finding is maintained even by appellate Authority.

6. We therefore, find no jurisdictional error or perversity. Petition is therefore, rejected. No costs.

(Sarang V. Kotwal, J.)

(B.P.Dharmadhikari, J.)