

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4902 OF 2017

Mrs. Shabana Samir Shaikh @ Shabbo.] ... Petitioner

Versus

State of Maharashtra & Ors.] ... Respondents

Mr. S. D. Sherkhane for Petitioner.

Mrs. M. H. Mhatre, APP for State.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE :- 26 MARCH, 2018

P. C. :-

1. The above Petition takes exception the order dated 07/08/2017 passed by the Divisional Commissioner, Konkan Division. By the said order, the Appeal filed by the Petitioner came to be dismissed and resultantly, the order dated 16/05/2017 passed by the Externing Authority i.e. Deputy Commissioner of Police, Zone IX, Mumbai, came to be confirmed. The Petitioner herein was issued with a show-cause notice under Section 59 of the Maharashtra Police Act, 1951 (for short, 'the said Act') calling upon the Petitioner to show

cause as to why she should not be externed under Section 56(1)(a)(b) of the said Act. In the said show-cause notice, a table disclosing the offences registered against the Petitioner and the date when they were registered, is appearing. The said show-cause notice also refers to the in-camera statements of the two witness 'A' and 'B'. The said show-cause notice is founded on the registration of the offences which are appearing in the table as also the illegal activities being carried out by the Petitioner. The said show-cause notice was replied to by the Petitioner vide reply dated 27/03/2017. The Petitioner had also filed written arguments before the Externing Authority which are dated 17/04/2017. The Externing Authority, having regard to the material on record, more particularly the registration of the 7 FIRs against the Petitioner between the period 2011 to 2014 for the offences punishable under Sections 323, 324, 353, 394, 504 and 506 of the IPC, as also having regard to the in-camera statements of the two witnesses, came to a conclusion that the Petitioner was required to be externed from the limits of Mumbai City and Mumbai Suburban District for a period of two years. The Externing Authority accordingly rejected the contentions which were raised on behalf of the Petitioner in the said externment proceedings and confirmed the show-cause

notice vide order dated 16/05/2017. The Petitioner, aggrieved by the said order dated 16/05/2017, has filed an Appeal under Section 60 of the said Act before the Divisional Commissioner. The Divisional Commissioner, having regard to the order passed by the Externing Authority and the subjective satisfaction reached by the Externing Authority, did not find any reason to interfere with the order passed by the Externing Authority and accordingly dismissed the Appeal vide order dated 07/08/2017. As indicated above, it is the said order dated 07/08/2017 which is taken exception to by way of the above Petition.

2. The learned Counsel for the Petitioner Mr. Sherkhane made a valiant attempt to assail the orders passed by the Externing Authority as well as the Appellate Authority by contending that the Petitioner has been wrongly arraigned as an accused in the said cases which have been registered by the Santacruz Police Station, Mumbai. It was also submitted by the learned Counsel that the Petitioner has children whom she has to provide for and therefore, externing the Petitioner from the limits of Mumbai City and Mumbai Suburban District would be harsh.

3. *Per contra*, Mrs. Mhatre, learned APP for State, supported the impugned order and would draw our attention to the offences which have been registered against the Petitioner between the period 2011 and 2014 with the Santacruz Police Station, Mumbai. The learned APP would also draw our attention to the in-camera statements of the two witnesses 'A' and 'B'.

4. We have, with the assistance of the learned Counsel for parties, perused the order passed by the Externing Authority as also the order passed by the Appellate Authority. On such consideration, we do not find fault with the subjective satisfaction reached by the Externing Authority having regard to the material on record, and the confirmation of the said order by the Appellate Authority. Hence, no case for exercise of the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)