

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

CRIMINAL WRIT PETITION NO.2454 OF 2018

- | | | |
|----|-------------------------------|---|
| 1] | Shri Altaf Rajekhan Pathan |] |
| | Age : Adult, Occu. Nil, |] |
| | R/o. 97, Mangalwar Peth, |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 2] | Shri Shahid Aslam Pathan |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. 82/83, Mangalwar Peth, |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 3] | Shri Amir Salim Tamboli |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Hatarmachi, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 4] | Shri Ravi Shivanand Dodamani |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Shanivar Peth, Karad, |] |
| | District – Satara |] |
| | |] |
| 5] | Shri Ramesh Sadashiv Aundhe |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Oagalewadi, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 6] | Shri Sunil Pralhad Khaire |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 7] | Shri Rohit Rajendra Masal |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 8] | Shri Ramdas Rajaram Kavare |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |

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| 9] | Shri Aabuti Umar Pariyar |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Shastrinagar, Malakapur |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 10] | Shri Ganesh Sanjay Waydande |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Budhawar Peth, Karad |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 11] | Shri Hiragesh Somanna Hiramani |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Daulat Colony, Karad |] |
| | Tal. Karad, District – Satara |] |
-]..... Petitioners.

versus

- | | | |
|----|---------------------------------|---|
| 1] | The Divisional Commission, Pune |] |
| | Division Pune, |] |
| | |] |
| 2] | Superintendent of Police, |] |
| | Satara, Dist. Satara |] |
| | |] |
| 3] | The State of Maharashtra |] |
| | Department of Home |] |
-]..... Respondents.

**ALONG WITH
CRIMINAL WRIT PETITION NO.275 OF 2018**

- | | | |
|----|-----------------------------|---|
| 1] | Zakir Abdul Mirajakar, |] |
| | Age : 48 yrs Occ : Business |] |
| | R/o Shamraonagar, Sangli |] |
| | Dist : Sangli |] |
-]..... Petitioner.

Versus

- | | | |
|----|-----------------------------------|---|
| 1] | The Divisional Commissioner, Pune |] |
| | Division Pune |] |
| | |] |
| 2] | Superintendent of Police, |] |
| | Sangli, Dist. Sangli |] |
| | |] |

- 3] The State of Maharashtra]
Department of Home]..... Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.305 OF 2018

- | | | |
|----|------------------------------|---|
| 1] | Aadam Moula Pathan |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Tarale Galli, Kupwad |] |
| | District- Sangli |] |
| | |] |
| 2] | Shri Sanjay Vithoba Chavan |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Dattanagar, Bamnoli, |] |
| | Tal. Miraj, District- Sangli |] |
| | |] |
| 3] | Uday Dashrath Kengare |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Prakashnagar, Kupwad |] |
| | Tal. Miraj, District- Sangli |] |
| | |] |
| 4] | Sachin Pandurang Salunkhe |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Near Marathi School, |] |
| | Bamnoli, Tal. Miraj, |] |
| | District- Sangli |] |
| | |] |
| 5] | Ashok Rajaram Parab |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Shamnagar, Kupwad |] |
| | Tal. Miraj, District- Sangli |] |
| | |] |
| 6] | Mahesh Sitaram Chogule |] |
| | Age, Adult, Occu. Nil, |] |
| | R/o, Bajrangnagar, Kupwad |] |
| | Tal. Miraj, District- Sangli |] |
| | |] |
-]..... Petitioners

Versus

- | | | |
|----|----------------------------------|---|
| 1] | The Divisional Commissioner Pune |] |
| | Division Pune |] |
| | |] |
| 2] | Superintendent of Police |] |

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|----|--------------------------|--------------------|
| | Sangli, Dist Sangli |] |
| | |] |
| 3] | The State of Maharashtra |] |
| | Department of Home |]..... Respondents |

**ALONG WITH
CRIMINAL WRIT PETITION NO.1359 OF 2018**

- | | | |
|----|---|--------------------|
| 1] | Firoz Hussain Pathan |] |
| | Age 47, Occu. Business |] |
| | R/o. Alishan Chouk, Sangli, |] |
| | District Sangli. |] |
| | |] |
| 2] | Vikram Dattatray Dhobale |] |
| | Age 49, Occu. Business |] |
| | R/o. Lalage Galli, Khanbhag, |] |
| | Sangli, District Sangli. |] |
| | |] |
| 3] | Faruk Amin Mujawar |] |
| | Age 29, Occu. Business |] |
| | R/o. Opp. Rajjak Garage, 100 ft. Road |] |
| | Sangli, District Sangli. |] |
| | |] |
| 4] | Rahul Mahesh Ghodage |] |
| | Age 34, Occu. Business |] |
| | R/o. 12 Th Galli, Jaysingpur |] |
| | District Kolhapur. |]..... Petitioners |

Versus

- | | | |
|----|----------------------------------|--------------------|
| 1] | The Divisional Commissioner Pune |] |
| | Division Pune |] |
| | |] |
| 2] | Superintendent of Police |] |
| | Sangli, Dist Sangli |] |
| | |] |
| 3] | The State of Maharashtra |] |
| | Department of Home |]..... Respondents |

**ALONG WITH
CRIMINAL WRIT PETITION NO.1546 OF 2018**

- | | | |
|----|-------------------------------|---|
| 1] | Shri Altaf Rajekhan Pathan |] |
| | Age : Adult, Occu. Nil, |] |
| | R/o. 97, Mangalwar Peth, |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 2] | Shri Shahid Aslam Pathan |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. 82/83, Mangalwar Peth, |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 3] | Shri Amir Salim Tamboli |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Hatarmachi, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 4] | Shri Ravi Shivanand Dodamani |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Shanivar Peth, Karad, |] |
| | District – Satara |] |
| | |] |
| 5] | Shri Ramesh Sadashiv Aundhe |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Oagalewadi, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 6] | Shri Sunil Pralhad Khaire |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 7] | Shri Rohit Rajendra Masal |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 8] | Shri Ramdas Rajaram Kavare |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Malakapur, Tal. Karad, |] |
| | District – Satara |] |
| | |] |
| 9] | Shri Aabuti Umar Pariyar |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Shastrinagar, Malakapur |] |
| | Tal. Karad, District – Satara |] |

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|-----|--------------------------------|---------------------|
| 10] | Shri Ganesh Sanjay Waydande |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Budhawar Peth, Karad |] |
| | Tal. Karad, District – Satara |] |
| | |] |
| 11] | Shri Hiragesh Somanna Hiramani |] |
| | Age. Adult, Occu. Nil |] |
| | R/o. Daulat Colony, Karad |] |
| | Tal. Karad, District – Satara |] |
| | |]..... Petitioners. |

versus

- | | | |
|----|---------------------------------|---------------------|
| 1] | The Divisional Commission, Pune |] |
| | Division Pune, |] |
| | |] |
| 2] | Superintendent of Police, |] |
| | Satara, Dist. Satara |] |
| | |] |
| 3] | The State of Maharashtra |] |
| | Department of Home |] |
| | |]..... Respondents. |

**ALONG WITH
CRIMINAL WRIT PETITION NO.4849 OF 2017**

- | | | |
|----|--|---|
| 1] | Shri Sudhir Mahadeo Shinde |] |
| | Age. 47, Occu. Rickshaw Driver |] |
| | R/o. Bharatnagar, Kolhapur Road, Snagli] |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| 2] | Shri Shivram Dhula Gadade |] |
| | Age. 45, Occu. Agriculturist, |] |
| | R/o. Nandre, Tal. Miraj, |] |
| | District – Sangli |] |
| | |] |
| 3] | Shri Anil Maruti Desai |] |
| | Age. 31, Occu. Panpatti |] |
| | R/o. Valiv, Tal.Gaonbhag, Snagli |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| 4] | Shri Babasaheb Dhondiram Shendage |] |
| | Age. 45, Occu. Agriculturist |] |
| | R/o. Kolhapur Road, Behind Kabade |] |

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|----|--|--------------------|
| | Hospital, Sangli, |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| 5] | Shri Annasaheb Piraji Shelake |] |
| | Age. 42, Occu. Watchman |] |
| | R/o. Dattanagar, Vishrambag, Snagli |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| 6] | Shri Vinayak Sudhakar Halyale |] |
| | Age. 20, Occu. Labourer, |] |
| | R/o. Behind Kabade Hospital, |] |
| | Kolhapur Road, Sangli |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| 7] | Shri Javed Balu Shaikh |] |
| | Age. 33, Occu. Driver |] |
| | R/o. Sutar Plot, Kolhapur Road, Snagli |] |
| | Tal. Miraj, District – Sangli |] |
| | |] |
| | Versus | |
| 1] | The Divisional Commissioner Pune |] |
| | Division Pune |] |
| | |] |
| 2] | Superintendent of Police |] |
| | Sangli, Dist Sangli |] |
| | |] |
| 3] | The State of Maharashtra |] |
| | Department of Home |] |
| | |]..... Respondents |

**ALONG WITH
CRIMINAL WRIT PETITION NO.4850 OF 2017**

- | | | |
|----|-------------------------------|---|
| 1] | Baban @ Mubarak Ilai Mujawar |] |
| | Age 45, Occu. Rickshaw Driver |] |
| | R/o, Shamrao Nagar, Kolhapur |] |
| | Road, Sangli, Tal- Miraj |] |
| | District- Sangli |] |
| | |] |
| 2] | Imtiyaz Abdul Sattar Jamadar |] |
| | Age 52, Occu. Labourer |] |
| | R/o, Latif Pathan Colony, |] |
| | Tal- Miraj, District- Sangli |] |

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|----|-------------------------------------|-------------------|
| 3] | Jamir Shakeel Dandekhana |] |
| | Age 27, Occu. Labourer |] |
| | R/o, Sarwan Galli, Khanbhag |] |
| | Sangli, Tal- Miraj District- Sangli |] |
| 4] | Mohammad Gous Mullani |] |
| | Age 50, Occu. Watchman |] |
| | R/o, Vinayak Nagar, 50 ft. Road |] |
| | Sangli, Tal- Mira District- Sangli |] |
| 5] | Santosh Dilip Gaikwad |] |
| | Age 32, Occu. Panpatti Business |] |
| | R/o, Near Maruti Mandir, |] |
| | Panchsheel Nagar, Sangli, |] |
| | Tal- Miraj, District- Sangli |] |
| 6] | Mahesh Ashok Bhise |] |
| | Age 32, Occu. Panpatti Business |] |
| | R/o, Shridhar Nagr, Behind |] |
| | Akashwani, Sangli, |] |
| | Tal- Miraj, District- Sangli |] |
| 7] | Noormohammad Ahemad Shaikh |] |
| | Age 70, Occu. Labourer |] |
| | R/o, Hanuman Nagar, 100 ft. |] |
| | Road, Sangli, Tal- Miraj |] |
| | District- Sangli |] |
| 8] | Azaruddin Bhola Beg |] |
| | Age 30, Occu. Business |] |
| | R/o, Sarwan Galli, Khanbhag |] |
| | Sangli, Tal- Miraj, |] |
| | District- Sangli |] |
| 9] | Nisar Wahab Mula |] |
| | Age 51, Occu. Nil (Handicap) |] |
| | R/o, Near Laxmi Mandir, |] |
| | Kupwad Road, Sangli, |] |
| | Tal- Miraj, District- Sangli |] |
| | | Petitioners |

Versus

- | | | |
|----|----------------------------------|---|
| 1] | The Divisional Commissioner Pune |] |
|----|----------------------------------|---|

lgc This judgment and order is corrected pursuant to the speaking to the minutes of the order dated 10/08/2018 passed in Criminal Writ Petition No.4953 o 2017.

- | | | |
|----|---|-------------------------|
| | Division Pune |] |
| | |] |
| 2] | Superintendent of Police
Sangli, Dist Sangli |]
] |
| | |] |
| 3] | The State of Maharashtra
Department of Home |]
]..... Respondents |

**ALONG WITH
CRIMINAL WRIT PETITION NO.5113 OF 2017**

- | | | |
|----|--|---|
| 1] | Ajj Mehbub Sheikh
Age 36, Occu. Agriculture
R/o. Dhamani, Tal. Miraj,
District – Sangli |]
]
]
]
] |
| 2] | Taimur Liyakat Sheikh
Age : 24, Occ : Business
R/o. Varnali, Galli No.3, Sangli
Dist : Sangli |]
]
]
]
]..... Petitioners. |

Versus

- | | | |
|----|---|-------------------------|
| 1] | The Divisional Commissioner Pune
Division Pune |]
]
] |
| 2] | Superintendent of Police
Sangli, Dist Sangli |]
]
] |
| 3] | The State of Maharashtra
Department of Home |]
]..... Respondents |

**ALONG WITH
CRIMINAL WRIT PETITION NO.5339 OF 2017**

- | | | |
|----|---|-----------------------|
| 1] | Irfan Abdulsattar Pakhali
Age 21, Occu. Driver
R/o, 100 Footy Road, Vishrambag,
Tal- Miraj, District- Sangli |]
]
]
]
] |
| 2] | Dattatreya Gunda Pawar
Age 50, Occu. Painter |]
] |

	R/o, Hanumannagar,	]
	District- Sangli	]
		]
3]	Irshad Ajij Sheikh	]
	Age 40, Occu. Business	]
	R/o, Khanbag, District- Sangli	]..... Petitioners

Versus

1]	The Divisional Commissioner Pune	]
	Division Pune	]
		]
2]	Superintendent of Police	]
	Sangli, Dist Sangli	]
		]
3]	The State of Maharashtra	]
	Department of Home	]..... Respondents

**ALONG WITH
CRIMINAL WRIT PETITION NO.4953 OF 2017**

1]	Avinash Subhash Bhagat	]
	Age : 39 years, residing at Kalambi	]
	Tal. Miraj, Dist. Sangli.	]
		]
2]	Sanjay Murlidhar Wadavne	]
	Age : 40 years, residing at Limb	]
	Tal. Tasgaon, Dist. Sangli	]
		]
3]	Tanaji Yedu Nalavade	]
	Age : 50 years, residing at Limb	]
	Tal. Tasgaon, Dist. Sangli	]
		]
4]	Jamal Ibrahim Shikalgar	]
	Age : 62 years, residing at Limb	]
	Tal. Tasgaon, Dist. Sangli	]
		]
5]	Ranjit Bilal Aware	]
	Age : 45 years, residing at Vasumbe	]
	Tal. Tasgaon, Dist. Sangli	]
		]
6]	Mohd. Hanif Amuddin Tamboli	]
	Age : 26 years, residing at Kasar Galli	]

- Tasgaon, Tal. Tasgaon, Dist. Sangli]
]
 7] Laxman Zendu Chavan]
 Age : 38 years, residing at Dongarsoni]
 Tal. Tasgaon, Dist. Sangli]
]
 8] Pradip Patangrao Pol]
 Age : 47 years, residing at Shivaji Chowk]
 Savlaj Tal. Tasgaon, Dist. Sangli]
]
 9] Mansur Balekhan Nadaf]
 Age : 40 years, residing at Bhagwan Chowk]
 Tasgaon, Tal. Tasgaon, Dist. Sangli]
]
 10] Akram Sayyed Tasewale]
 Age : 51 years, residing at Momin Galli,]
 Tasgaon, Tal. Tasgaon, Dist. Sangli]
]
 11] Aziz Shahanur Sheikh]
 Age : 52 years, residing at KavtheEkand,]
 Tal. Tasgaon, Dist. Sangli]
]
 12] Maruti Ramchandra Aadmuthe]
 Age : 32 years, residing at KavtheEkand,]
 Tal. Tasgaon, Dist. Sangli]
]
 13] Iqbal Shahabuddin Pathan]
 Age : 38 years, residing at Yelavi,]
 Tal. Tasgaon, Dist. Sangli]
]
 14] Shital Sanjay Vadavne]
 Age : 30 years, residing at Joshi Galli,]
 Tasgaon, Tal. Tasgaon, Dist. Sangli]
]
 15] Vijay Rajgonda Patil]
 Age : 33 years, residing at Wasagade,]
 Tal. Palus, Dist. Sangli]..... Petitioners.

versus

- 1] The State of Maharashtra,]
 through the Superintendent of Police,]
 Sangli,]
]

- 2] Divisional Commissioner and Appellate]
 Authority, Pune Division, having office]
 at Vidhan Bhavan, Pune]..... Respondents.

**ALONG WITH
 CRIMINAL WRIT PETITION NO.4820 OF 2017**

- 1] Mr. Vilas Jagannath Jadhav]
 Age – 40 years, Occ – Agriculturist]
 R/o – Chinchni, Tal – Tasgaon,]
 Dist. Sangli.]
]
 2] Mr. Appaso Shankar Patil]
 Age – 39 years, Occ – Agriculturist]
 R/o – Shirgaon, Tal – Tasgaon,]
 Dist. Sangli.]
]
 3] Mr. Dashrath Mansing Nikam]
 Age – 40 years, Occ – Agriculturist]
 R/o – Rajapur, Borgaon, Tal – Tasgaon,]
 Dist. Sangli.]
]
 4] Mr. Dadaso Dattu Shirtode]
 Age – 50 years, Occ – Agriculturist]
 R/o – Kavathe Yakand, Tal – Tasgaon,]
 Dist. Sangli.]
]
 5] Mr. Maruti Rama Mali]
 Age – 59 years, Occ – Labourer]
 R/o – Bapuwadi, Tal – Tasgaon,]
 Dist. Sangli.].....Petitioners.

Versus

- 1] Divisional Commissioner, Pune Division]
 At Pune, Appellate Authority,]
 Pune Division, at Pune and others]
]
 2] State of Maharashtra]
 Through Police Inspector,]
 Tasgaon Police Station,]
 Tal – Tasgaon, Dist. Sangli]

- 3] Externment Authority]
 Superintendent of Police, Sangli]
 Superintendent of Police Office, Sangli]
 Vishrambag, Sangli – 416416]..... Respondents.

**ALOGN WITH
 CRIMINAL WRIT PETITION NO.5455 OF 2017**

- 1] Shri Ranjit Tanaji Aarte]
 Age 30 years, occup – Business/farmer]
 Residing at – Bhilwadi, Tal. Palus,]
 Dist – Sangali.]
]
 2] Mr. Ashok Shankar Ware]
 Age 52 years, Occup – farmer]
 Residing at – Ankalkhop, Tal. Palus,]
 Dist – Sangali]
]
 3] Mr. Hanumant Bhagwan Kambale]
 Age 29 years, Occup – farmer]
 Residing at – Malwadi, Tal. Palus,]
 Dist – Sangali]
]
 4] Mr.Narendra Bharmarajane]
 Age 49 years, Occup – farmer]
 Residing at – Bhilwadi,]
 Tal. Palus, Dist – Sangali]
]
 5] Mr.Hanumant Maruti Nalwade]
 Age 35 years, Occup – farmer]
 Residing at – Malwadi,]
 Tal. Palus, Dist – Sangali]
]
 6] Mr.Amol Rajendra Jangam]
 Age 21 years, Occup – farmer]
 Residing at – Bhilwadi,]
 Tal. Palus, Dist – Sangali]
]
 7] Mr.Gulab Yasin Salamat]
 Age 69 years, Occup – farmer]
 Residing at – Bhilwadi,]

Tal. Palus, Dist – Sangali]
]
 8] Mr.Shivaji Yashwant Salunkhe]
 Age 54 years, Occup – farmer]
 Residing at – Malwadi,]
 Tal. Palus, Dist – Sangali].... Petitioners.

versus

1] State of Maharashtra]
 Through Principal Secretary,]
 Home Department, Maharashtra State]
 Mantralaya, Mumbai – 400 032]
]
 2] Superintendent of Police, Sangali]
 Vishrambag, National Highway 204,]
 Tal – Miraj, Sangali – 416 416]
]
 3] Divisional Commissioner]
 Divisional Commissioner Office,]
 Pune.]..... Respondents.

ALONG WITH
 CRIMINAL WRIT PETITION NO.5116 OF 2017

Nasir Mhamulal Sandi]
 Age : 43 years, Occ : Agriculturist]
 R/o. - Yelavi, Tal. Tasgaon, Dist. Sangli]..... Petitioner.

Versus

1] Divisional Commissioner, Pune Division]
 at Pune @ Appellate Authority,]
 Pune Division at Pune, Having office at]
 Council Hall, Bandgarden, Pune]
]
 2] State of Maharashtra]
 Through Police Inspector,]
 Tasgaon Police Station, Tasgaon]
 Dist. : Sangli]
]
 3] Externment Authority @]
 Superintendent of Police, Sangli]

Superintendent of Police Office, Sangli]
 Vishrambag, Sangli – 416 416]..... Respondents.

ALONG WITH
 CRIMINAL WRIT PETITION NO.5040 OF 2017

- | | | |
|----|--|---------------------|
| 1] | Mr. Amar Prakash Kulguti |] |
| | Age – 32, Occupation – Labour, |] |
| | R/at Charcha Road, Mangalwar Peth |] |
| | Miraj, Tal – Miraj, Dist – Sangli, |] |
| | |] |
| 2] | Mr. Jaykumar Shivappa Shastri |] |
| | Age – 42 years, occupation – Painter |] |
| | Residing at Sangli Ves, Miraj, |] |
| | Taluka Miraj, Dist. Sangli |] |
| | |] |
| 3] | Mr. Javeed Allabaksha Beg, |] |
| | Age – 33 years, Occupation – Rickshaw |] |
| | Driver, residing at – Kaman Ves, |] |
| | Mali Gali, Miraj, Dist. Sangli – 416410. |]..... Petitioners. |

versus

- | | | |
|----|---------------------------------|---------------------|
| 1] | The State of Maharashtra |] |
| | Through Chief Secretary of Home |] |
| | Department, Mumbai. |] |
| | |] |
| 2] | The Divisional Commissioner |] |
| | Pune Division, Pune |] |
| | |] |
| 3] | Superintendent of Police Sangli |] |
| | Dist. Sangli. |]..... Respondents. |

ALONG WITH
 CRIMINAL WRIT PETITION 1025 OF 2018

- | | | |
|----|--------------------------------------|---|
| 1] | Vicky @ Vikrant Sudhir Rasal |] |
| | Age 35 years, Occ : Business |] |
| | Residing at Subhash Nagar, Barshi, |] |
| | Taluka – Barshi, District – Solapur, |] |

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| | |] |
| 2] | Chandrakant Dagdu Kadam |] |
| | Age 54 years, Occupation : Labour |] |
| | Residing at Upali Road Barshi, |] |
| | District – Solapur, |] |
| | |] |
| 3] | Parmeshwar Vasudev Gholap |] |
| | Age 43 years, Occupation : Agriculturist |] |
| | Residing at Mahagaon, |] |
| | Taluka – Barshi, District – Solapur, |] |
| | |] |
| 4] | Sudhakar Vishwanath Lakal |] |
| | Age 39 years, Occupation : Labour |] |
| | Residing at Mangade Chawl Barshi, |] |
| | District – Solapur, |] |
| | |] |
| 5] | Subhash Siddhling Rajmane |] |
| | Age 39 years, Occupation : Labour |] |
| | Residing at Upali Road |] |
| | Barshi, District – Solapur, |] |
| | |] |
| 6] | Satish Bansilal Sahane |] |
| | Age 40 years, Occupation : Labour |] |
| | Residing at Subhash Nagar |] |
| | Barshi, District – Solapur, |] |
| | |] |
| 7] | Santosh Kisan Salunke |] |
| | Age 33 years, Occupation : Business |] |
| | Residing at Rana Colony |] |
| | Barshi, District – Solapur, |] |
| | |] |
| 8] | Umesh Kisan Salunke |] |
| | Age 41 years, Occupation : Business |] |
| | Residing at Rana Colony |] |
| | Barshi, District – Solapur, |] |
| | |] |
| 9] | Sachin Shivaji Mane |] |
| | Age 33 years, Occupation : Labour |] |
| | Residing at Subhash Nagar |] |
| | Barshi, District – Solapur, |] |
| | |] |
| 10] | Bhagwan Ramling Wagh |] |
| | Age 54 years, Occupation : Labour |] |
| | Residing at Kazzi Galli |] |

Barshi, District – Solapur,

]..... Petitioners.

Versus

- | | | |
|----|--------------------------------|---------------------|
| 1] | The State of Maharashtra |] |
| | (Through Home Department |] |
| | Mantralaya, Mumbai) |] |
| | |] |
| 2] | Police Superintendent |] |
| | Solapur Rural |] |
| | |] |
| 3] | Sub-Divisional Police Officer, |] |
| | Akkalkot, District – Solapur. |] |
| | |] |
| 4] | Divisional Commissioner |] |
| | Pune Division, Pune |] |
| | |]..... Respondents. |

ALONG WITH
CRIMINAL WRIT PETITION NO.2164 OF 2018

- | | | |
|----|--------------------------------------|---------------------|
| 1] | Shri Vishal Shantaram Beale, |] |
| | Age ; 27 years, Occ : Daily wages, |] |
| | R/at : Ramnagar, Tal & Dist. Satara |] |
| | |] |
| 2] | Shri Dattatraya Ramchandra Ingawale, |] |
| | Age : 45 years, Occ : Daily wages, |] |
| | R/at : Saidapur, Tal : Satara, |] |
| | Dist : Satara |] |
| | |] |
| 3] | Shri Nitin Bajirao Hirve |] |
| | Age : 32 years, Occ : Daily wages, |] |
| | R/at : Satara, Tal : Satara, |] |
| | Dist : Satara. |] |
| | |]..... Petitioners. |

Versus

- | | | |
|----|----------------------------------|---|
| 1] | State of Maharashtra |] |
| | |] |
| 2] | Hon'ble Divisional Commissioner, |] |
| | Pune Region Pune |] |
| | |] |
| 3] | The Superintendent of Police, |] |
| | (Externment Authority) |] |

- Satara]
]
 4] Divisional Police Inspector,]
 Satara Division, Dist : Satara]..... Respondents.

**ALONG WITH
 CRIMINAL WRIT PETITION NO.1625 OF 2018**

- 1] Mehbub Abdul Karim Shaikh]
 Age : 40 years]
 R/o. Gajanan Colony, Takali Road]
 Sangli]..... Petitioner.

Versus

- 1] Sub-Divisional Police Officer,]
 Division Miraj, District : Miraj]
]
 2] Superintendent of Police]
 Office of Superintendent of Police]
 Sangli at Sangli]
]
 3] Police Inspector,]
 Mahatma Gandhi Chowk,]
 Police Station, Miraj, Tal. Miraj]
 District : Miraj]
]
 4] The Divisional Commissioner,]
 Pune Division Pune]
]
 5] The State of Maharashtra]..... Respondents.

**ALONG WITH
 CRIMINAL WRIT PETITION NO.4934 OF 2017**

- 1] Niyaj Mirasaheb Bairagadar]
 Age : 32 years, Occ : Worker]
 R/o. Kama Wes, Miraj, Tal. Miraj,]
 District : Sangli]
]
 2] Aslam Gudulal Beg]

Age : Adult, Occ : Worker]
 R/o. Kamanves, Mali Galli]
 Tal. Miraj, Dist. Sangli]..... Petitioners.

Versus

- | | | |
|----|---|----------------------------|
| 1] | Sub-Divisional Police Officer,
Division Miraj, District : Miraj |]
]
] |
| 2] | Superintendent of Police
Office of Superintendent of Police
Sangli at Sangli |]
]
]
]
] |
| 3] | Police Inspector,
Mahatma Gandhi Chowk,
Police Station, Miraj, Tal. Miraj
District : Miraj |]
]
]
]
]
] |
| 4] | The Divisional Commissioner,
Pune Division Pune |]
]
] |
| 5] | The State of Maharashtra |]..... Respondents. |

**ALONG WITH
 CRIMINAL WRIT PETITION NO.4945 OF 2017**

- | | | |
|----|---|-----------------------|
| 1] | Maksud Ilai Ghodimar
Age : 41 years, Occ : Labour
R/o. Guruwar Peth, Miraj |]
]
]
] |
| 2] | Ramjan Shabbir Sharikmaslat
Age : 39 years, Occ : Labour,
R/o. Darga Parisad, Miraj |]
]
]
]
] |
| 3] | Tohid Nazir Shaikh
Age : 31 years, Occ : Labour
R/o. Station Road, Miraj |]
]
]
]
] |
| 4] | Faizpeer Usmangani Aaga
Age : 41 years, Occ : Labour
R/o. Darga Parisad, Miraj |]
]
]
]
] |
| 5] | Noormohammad Gaus Jindi |] |

- Age : 42 years, Occ : Labour]
R/o. Jaribaug, Miraj]
]]
6] Ramesh Dadu Sathe]
Age : Adult, Occ : Labour]
R/o. Sanjay Gandhi Nagar Slum,]
Miraj, District : Sangli]
]]
7] Gaus Noormohammad Khalifa]
Age : Adult, Occ : Labour]
R/o. Kapshikar Building Miraj]
]]
8] Gundurao Satish Kamble]
Age : Adult, Occ : Labour]
R/o. Near Zaribaug Hospital,]
Miraj, Tal. Miraj, Dist : Sangli]
]]
9] Amin Khudbuddin Patwegar]
Age : Adult, Occ : _____]
R/o. Budhwar Peth, Kanwadkar]
Houd, Patil Galli, Miraj.]..... Petitioners.

Versus

- 1] Sub-Divisional Police Officer,]
Division Miraj, District : Miraj]
]]
2] Superintendent of Police]
Office of Superintendent of Police]
Sangli at Sangli]
]]
3] Police Inspector,]
Mahatma Gandhi Chowk,]
Police Station, Miraj, Tal. Miraj]
District : Miraj]
]]
4] The Divisional Commissioner,]
Pune Division Pune]
]]
5] The State of Maharashtra]..... Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.5055 of 2017

- | | | |
|----|-----------------------------------|--------------------|
| 1] | Bhavin Kedarlal Shah |] |
| | Age : 39 years, |] |
| | R/o. Gaon Bhag Sangli, Tal. Miraj |] |
| | District : Sangli |]..... Petitioner. |

Versus

- | | | |
|----|------------------------------------|---------------------|
| 1] | Sub-Divisional Police Officer, |] |
| | Division Miraj, District : Miraj |] |
| | |] |
| 2] | Superintendent of Police |] |
| | Office of Superintendent of Police |] |
| | Sangli at Sangli |] |
| | |] |
| 3] | Police Inspector, |] |
| | Mahatma Gandhi Chowk, |] |
| | Police Station, Miraj, Tal. Miraj |] |
| | District : Miraj |] |
| | |] |
| 4] | The Divisional Commissioner, |] |
| | Pune Division Pune |] |
| | |] |
| 5] | The State of Maharashtra |]..... Respondents. |

ALONG WITH
CRIMINAL WRIT PETITION NO.61 OF 2018,

- | | | |
|----|--------------------------------------|---------------------|
| 1] | Hayat Rafioddin Vijapure |] |
| | Age : 52 years, Occ : Agriculture |] |
| | Residing at House No.589, |] |
| | Sakhar Peth, Solapur |] |
| | |] |
| 2] | Jilani Ibrahim Shaikh, |] |
| | Residing at 235, Telangi Pacha Peth, |] |
| | Solapur. |]..... Petitioners. |

Versus

- | | | |
|----|------------------------------|---|
| 1] | State of Maharashtra |] |
| | Through |] |
| | The Divisional Commissioner, |] |
| | Pune Division, Pune |] |

- | | |
|---|---------------------|
| |] |
| 2] The Deputy Commissioner of Police(Zone)] |] |
| Solapur City, Solapur |] |
| |] |
| 3] The Additional Police Commissioner, |] |
| Division-1, Solapur City. |] |
| |] |
| 4] The Inspector of Police |] |
| Jail Road Police Station, Solapur. |]..... Respondents. |

Shri U R Mankapure for Petitioners in W P Nos. 2454/2018, 275/2018, 305/2018, 1359/2018, 1546/2018, 4849/2017, 4850/2017, 5113/2017, and 5339/2017.

Shri Satyavrat Joshi i/b Shri Sumant Deshpande for the Petitioners in W P No.4953/2017.

Mrs Anita Wakchaure i/b Shri V R Shinde for the Petitioners in W P Nos.5455/2017 & 4820/2017.

Shri Manoj A Patil for the Petitioners in W P No. 5116/2017.

Shri D B Shinde i/b Shri S A Kashid, for the Petitioners in W P No.5040/2017.

Shri V N Tripathi i/b Shri Ritesh Thobde for the Petitioners in W P No.1025/2018.

Shri Rahul Kadam for Petitioners in W P No.2164/2018.

Shri K U Nikam, for the Petitioners in W P No.1625/2018, 4934/2017, 4945/2017 and 5055/2017,

Shri Veerdhaval Kakade for the Petitioners in W P No.61/2018

Mrs A S Pai, Addl PP for the Respondent/State in W P Nos.275/2018, 4820/2017, 4945/2017, 5040/2017, 5055/2017.

Shri Deepak Thakare, PP a/w Shri K V Saste, Addl PP for the Respondent/State.

Shri K V Saste, Addl PP for Respondent/State in W P Nos.4953/2017, 1359/2018, 1546/2018, 1625/2018, 4934/2017, 5113/2017, 5116/2017

Mrs P P Shinde, APP for Respondent/State in W P Nos.5339/2017, 5455/2017, 4849/2017, 4850/2017

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
Reserved on : 25th June 2018
Pronounced on : 12th July 2018**

JUDGMENT : [Per R. M. Savant, J.]

1 Rule in all the above Writ Petitions, with the consent of the learned counsel for the Petitioners and the learned Additional Public Prosecutor made returnable forthwith and heard.

2 The above group of 21 Writ Petitions challenge the orders passed by the Appellate Authority in the Appeals filed by the Petitioners under Section 60 of the Maharashtra Police Act (for short “the police act”) by which orders the externment orders passed by the Externment Authority came to be confirmed save and except to the extent mentioned in the operative part of the orders passed by the Appellate Authority in some cases. All the Petitions involve identical facts and raise the same issues and are therefore heard together and disposed of.

3 The orders of externment passed against the Petitioners in each of the above Writ Petitions are under Section 55 of the police act. The Petitioners in the above Writ Petitions were issued a show cause notice under Section 59

lgc This judgment and order is corrected pursuant to the speaking to the minutes of the order dated 10/08/2018 passed in Criminal Writ Petition No.4953 o 2017.

of the police act calling upon them to show cause as to why they should not be externed under Section 55 of the police act for a period of 2 years from the Districts which are mentioned in each of the show cause notices viz. Sangli, Satara, Kolhapur and Solapur. The said show cause notices referred to the offences registered against the Petitioners who are alleged to be gang leaders and members only under Section 12A of the Maharashtra Prevention of Gambling Act (for short “the gambling act”). Hence the premise for proceeding against the Petitioners is that they constitute a “gang” within the meaning of Section 55 of the police act. It seems that most of the Petitioners showed cause pursuant to the show cause notices issued to them and questioned the issuance of the show cause notice having regard to the fact that the offences mentioned in the show cause notices were offences registered under the gambling act. In the said background it was the case of the Petitioners in their reply that the provisions of Section 55 of the police act could not be invoked.

4 The Externing Authority considered the material on record and passed the orders of externment in respect of the Petitioners amongst whom are the persons who are alleged to be the gang leaders. In the process of externing the Petitioners, the Externing Authority reached a subjective satisfaction that having regard to the activity of the Petitioners which was to lure the people towards gambling in the form of “Matka” thereby having an adverse effect on the society as the said gambling activity has the potential to

cause addiction amongst the people and thereby having an effect on their financial well being and since there was no chance of the Petitioners reforming themselves, the Externing Authority was of the view that it was necessary to extern the Petitioners. The Externing Authority in some of the cases has also referred to the in-camera statements of the witnesses whose statements have been referred to in the show cause notices in some of the cases.

5 The Petitioners aggrieved by the orders of the Externing Authority passed against them filed Appeals under Section 60 of the police act before the Appellate Authority. The Appellate Authority has passed the impugned orders in each of the above Petitions dismissing the Appeals, however, in some cases has reduced the period of externment from the one prescribed by the Externing Authority.

6 In the above Writ Petitions, especially in Writ Petition No.2454 of 2018 an issue which has been raised is, whether for the offences under the gambling act the provisions of Section 55 of the police act could be invoked. However, one issue which is common in all the Writ Petitions is the issue whether having regard to the offences registered against the persons purportedly to be the gang leader and other persons who are alleged to be the members of the gang, they could qualify to be a gang or a body of persons as postulated in Section 55 of the police act so as to enable the authorities to

invoke the provision of Section 55 of the police act. The other issue raised was inter-alia as regards the particulars in respect of when the in-camera statements of the witnesses recorded etc. were absent and therefore no effective representation could be made by the Petitioners (In Writ Petition No.4953 of 2018). However, the fundamental issue which has been raised by the Petitioners in the above Writ Petitions are impinging upon the existence of the jurisdictional facts so as to entitle the authority to invoke Section 55 of the police act.

7 The issue as to whether the provisions of Section 55 could be invoked on the basis of the offences registered under the gambling act has been raised by the learned counsel for the Petitioners Shri U R Mankapure appearing in Writ Petition No.2454 of 2018 as also the other Petitioners except the Petitioners in Writ Petition No.4953 of 2018 who are represented by learned counsel Shri Satyavrat Joshi, who fairly conceded that even for the offences registered under the gambling act, Section 55 of the police act could be invoked.

8 In respect of the said issue the learned counsel for the Petitioners Shri Umesh Mankapure made the following submissions :-

A] That the offences under the gambling act can be said to be petty

offences and therefore the same could not be taken into consideration for externing a person by invoking Section 55 of the police act.

B] The second submission of the learned counsel Shri Umesh Mankapure was that the first portion of Section 55 is pari-materia to Section 56(1)(a) of the police act and if for invoking Section 56(1)(a) the offences punishable under Chapter Nos.XII, XVI or XVII of the Indian Penal Code are necessary, then the logical corollary of the same would be that for the invocation of the provisions of Section 55 the requirement would have to be the same viz. that Section 55 can be invoked only if there are offences punishable under Chapters XII, XVI or XVII which are alleged against the noticee.

9 In so far as the said issue is concerned, the submissions of the learned Additional Public Prosecutor Mrs. A S Pai appearing on behalf of the Respondent/State were as under :-

i] That there have to be cases registered for the offences punishable under Chapters XVI and XVII of the Indian Penal Code is not a requirement for invocation of Section 55 of the police act.

- ii] That the requirement as can be seen from a reading of Section 55 is that there is a movement or encampment of any gang or body of persons which is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof.
- iii] That Section 55 stands in contradistinction to Section 56 both in its objects and contents, whereas Section 55 covers dispersal of gangs and bodies of persons. Section 56 is directed towards removal of persons about to commit an offence. Whereas Section 55 can be invoked in respect of unlawful designs. Section 56 can be invoked in respect of any person causing or calculated to cause alarm, danger or harm to person or property or that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code.

10 In view of the issue raised as regards whether Section 55 of the police act could be invoked in respect of the offences punishable under the gambling act, it would be necessary to address the said issue at the outset.

11 In the said context it would be necessary to refer to Sections 55 and 56 of the police act which for the sake of ready reference are reproduced herein under :-

55. *Dispersal of gangs and body of persons:-*

Whenever it shall appear in Greater Bombay and in other areas in which a Commissioner is appointed under Section 7 to the Commissioner and in a district to the District Magistrate, the Sub-Divisional Magistrate or the [Superintendent][****] empowered by the State Government in that behalf, that the movement or encampment of any gang or body of persons in the area in his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such officer may, by notification addressed to the persons appearing to be the leaders of chief men of such gang or body and published by beat of drum or otherwise as such officer thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm or disperse and each of them to remove himself outside the area within the local limits of his jurisdiction [or such area and any district or districts, or any part thereof, contiguous thereto] within such time as such officer shall prescribe, and not to enter to area [for the areas and such contiguous districts, or part thereof as the case may be], or return to the place from which each of them was directed to remove himself.

56. *Removal of persons about to commit offence :-*

[(1) Whenever it shall appear in Greater Bombay and other areas for which a Commissioner has been appointed under section 7 to the Commissioner and in other area or areas to which the State Government may, by notification in the *Official Gazzette*, extend the provisions of this section, to the District Magistrate, or the Sub-Divisional Magistrate [***] empowered by the State Government in that behalf (a) that the movements or acts of any person are causing or

calculated to cause alarm, danger or harm to person or property or (b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, XVI, or XVII of the Indian Penal Code (XLV of 1860), or in the abetment of any such offence and when in the opinion of such officer 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, or [(bb) that there are reasonable grounds for believing that such person is acting or is about to act (1) in any manner prejudicial to the maintenance of public order as defined in the Maharashtra Prevention of Communal, Antisocial and other Dangerous Activities Act, 1980, (Mah. VII VII of 1981), or (2) in any manner prejudicial to the maintenance of supplies of commodities essential to the community as defined in the Explanation to sub-section (1) of Section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (7 of 1980), or (c) that an outbreak of epidemic disease is likely to result from the continued residence of an immigrant, the said officer may, by an order in writing duly served on him or by beat of drum or otherwise as he thinks fit, direct such person or immigrant so to conduct himself as shall seem necessary in order to prevent violence and alarm [or such prejudicial act], or the outbreak or spread of such disease or [notwithstanding anything contained in this Act or any other law for the time being in force, to remove himself outside such area or areas in the State of Maharashtra (whether within the local limits of the jurisdiction of the officer or not and whether contiguous or not), by such route, and within such time, as the officer may specify and not to enter or return to the area or areas specified (hereinafter referred to as "the specified area or areas") from which he was directed to remove himself].

[(2) An officer directing any person under sub-section (1) to remove himself from any specified area or areas in the State may further direct such person that during

the period the order was made against him is in force, as and when he resides in any other areas in the State, he shall report his place of residence to the officer in-charge of the nearest police station once in every month, even if there be no change in his address. The said officer may also direct that, during the said period, as and when he goes away from the State, he shall, within ten days from the date of his departure from the State send a report in writing to the said officer, either by post or otherwise, of the date of his departure, and as and when he comes back to the State he shall, within ten days, from the date of his arrival in the State, report the date of his arrival to the officer in-charge of the police station nearest to the place where he may be staying]”

12 It is required to be noted that Sections 55 and 56 of the police act are contained in Chapter V whose title is “Special Measures for Maintenance of Public Order and Safety of State”. Section 55 provides for dispersal of gangs and bodies of persons. It contemplates that the Commissioner in a Commissionerate area and in a district the District Magistrate, the Sub-Divisional Magistrate or the Superintendent empowered by the State Government in that behalf can invoke the said provision if the movement or encampment of any gang or body of persons in the area in his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof. Hence the overarching aspect is the danger or alarm or reasonable suspicion that unlawful designs are being entertained by such gang or body of persons. The unlawful designs would include an act which is illegal that is against the provisions of any law, which makes it unlawful.

13 In the instant case, the allegation against the Petitioners is of carrying out the activity of “Matka” which is a form of gambling which is prohibited and which falls foul of the gambling act. Hence the said activity of “Matka” being in violation of the gambling act, the same would come within the sweep of an “unlawful design” which is contemplated in Section 55 of the police act. The words “alarm” or “danger” in the said provision which precede the word “reasonable suspicion” have to be read together with “unlawful designs” meaning thereby the danger is on account of unlawful designs as also the alarm would also be on account of unlawful designs of the gang or body of persons.

14 In our view, from a plain reading of Section 55 of the police act it can be concluded that any “unlawful design” of a gang or body of persons would be covered by Section 55 of the police act.

15 Now coming to the contentions of the learned counsel for the Petitioner Shri Umesh Mankapure that having regard to the wording of Section 56(1)(a) of the police act and the opening part of Section 55, the same being pari-materia. It is only if an offence punishable under Chapters XII, XVI or XVII of the Indian Penal Code is registered against the noticee, then only Section 55 can be invoked. In our view, the said submission is misconceived. As indicated

herein above, Sections 55 and 56 have different objects whereas Section 55 is for dispersal of gangs and bodies of persons who are entertaining unlawful designs. Section 56 is for removal of persons about to commit an offence. Secondly Section 56(1)(a) is not identical to the opening part of Section 55 though the words “alarm” or “danger” are appearing in both the provisions. Section 56(1)(a) contemplates the movements or acts of any person causing or calculated to cause alarm, danger or harm to person or property. The offences against the person or property are those covered by Chapters XVI or XVII which find a place in Section 56(1)(b), which contemplates a person engaged in or about to be engaged in an offence involving force or violence or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code. Since Sections 56(1)(a) and 56(1)(b) are part of the same Section 56, the requirement mentioned in Section 56(1)(b) would have to be read into Section 56(1)(a). Hence Section 56(1)(a) can be invoked if the allegation against the noticee is in respect of “alarm”, “danger” or “harm” to a person or property, meaning thereby the allegation against the person would have to be in respect of an offence which is punishable under Chapters XVI or XVII of the Indian Penal Code.

Hence it is not possible to accept the contention of the learned counsel for the Petitioners Shri Umesh Mankapure that only if an offence punishable under Chapters XVI or XVII is registered, then the provisions of

Section 55 of the police act can be invoked against a gang or body of persons.

16 As regards the submission of the learned counsel for the Petitioners Shri Umesh Mankapure that the offence of gambling being a petty offence it cannot attract Section 55 of the police act, it is required to be noted that in Section 55 there is no specific reference to any law under which the offences are required to be registered and punishable. In view thereof, reference could be made to Section 57 of the police act which is the succeeding Section which can be said to be an indicia as what can be said to be covered by Section 55.

Section 57 covers removal of persons convicted of certain offences. Section 57(b) covers a person convicted twice or more of an offence under the Bombay Prohibition Act and Section 57(a)(v) contemplates a person convicted of an offence under the Bombay Prevention of gambling act now the Maharashtra Prevention of Gambling Act . Hence reading of Section 57 discloses that even the offences under the Bombay Prohibition Act and the Bombay Prevention of Gambling Act are viewed seriously and the conviction under the said Acts can entail an externment under Section 57. Hence Section 57 in a way fortifies that “unlawful designs” would include the offences under the gambling act. In our view, therefore even for the offences under the gambling act, the provisions of Section 55 can be invoked. Hence we reject the

said contention of the learned counsel Shri U R Mankapure.

17 In so far as the said issue is covered, the learned counsel Shri Umesh Mankapure initially sought to place reliance on the judgment of a Division Bench of this Court sitting at Aurangabad (Coram : Prasanna B Varale & Smt. Vibha Kankanwadi, JJ) in **Criminal Writ Petition No.0239 of 2018** in the matter of **Kamalkishor s/o. Pusaram Bang v/s. The Superintendent of Police, Jalna and ors** dated 12/04/2018. However, having regard to the judgment of the Division Bench of this Court sitting at Nagpur in **Criminal Writ Petition No.355 of 2013** in the matter of **Sagarsingh Kesharsingh Bawari v/s Ministry of Home Department, through its Principal Secretary (Special), Mantralaya, Mumbai-32 and ors.** Dated 03/09/2013 on which reliance was placed by the Division Bench at Aurangabad and the facts involved in the case before the Division Bench at Nagpur which was a case involving an externment under Section 56 of the police act, the learned counsel gave up the said reliance.

18 The second issue which arises for our consideration and which is raised in all the above Writ Petitions is whether the Petitioners can be said to constitute a “gang” within the meaning of Section 55 of the police act. The said issue therefore encompasses within itself the existence of the jurisdictional fact enabling the authorities to exercise powers under Section 55 of the police act.

19 It was the submission of the learned counsel for the Petitioners Shri Satyavrat Joshi that the word gang or body of person being collective in nature, the offences which are registered have to be against the gang members collectively or at least a substantial number of gang members. Such is not the case in the instant Writ Petitions. It was also the submission of the learned counsel for the Petitioners that to cause an apprehension as regards the danger or alarm or reasonable suspicion that unlawful designs are being entertained by such gang or body of person, the offences registered against a gang leader and the members has to be in close proximity to each other whereas in the instant case the offences registered are one in a year in respect of the gang leader and a member, in some cases from the year 2012 dating up to the year 2017.

Reliance was sought to be placed by the learned counsel Shri Satyavrat Joshi on the judgment of a Division Bench of this Court (Coram : S.C.Dharmadhikari and S B Shukre, JJ) in **Criminal Writ Petition No.2385 of 2013** in the matter of **Ahammad Mainuddin Shaikh v/s. The State of Maharashtra and anr**, dated 16/08/2013.

The said submission of Shri Satyavrat Joshi was reiterated by the learned counsel Shri Rahul Kadam who submitted that though there are

offences registered against the person who is alleged to be the gang leader and a member there is not a single offence registered against all the gang members collectively, and therefore, the basic requirement of there being a gang or body of persons was not fulfilled.

The learned counsel Shri V. N. Tripathi for the Petitioners in Writ Petition No.1025 of 2018 would also contend that there has to be a collective participation for the activities to come within the sweep of Section 55. Reliance was placed by him on the judgment of a Division Bench of this Court reported in 2014 ALL MR (Cri) 1277 in the matter of Vijay Lalso Jadhav v/s. State of Maharashtra and ors.

20 Per contra it was the submission of the learned Additional Public Prosecutor Mrs. A S Pai for the Respondent/State that since the offences have been registered against the gang leader and a member, the gang leader and the members qualify to be a gang, though there is no offence registered collectively against the gang leader and the other members.

The learned Additional Public Prosecutor sought to place reliance on the dictionary meaning of the word “gang” as appearing in Law Lexicon which reads thus :-

“A number of people closely associated; a set of persons working together in a squad or shift; a

company of persons working together for anti-social purposes”

Relying on the said meaning the learned Additional Public Prosecutor would contend that a number of people closely associated would be covered so as to constitute a gang.

The learned Additional Public Prosecutor would seek to place reliance on the judgment of a Division Bench of this Court sitting at Aurangabad reported in 2017(2) Bom.C.R. (Cri) 653 in the matter of Balu @ Balasaheb Jagannath Jadhav v/s. Divisional Commissioner, Aurangabad & ors. in support of her said contention.

21 In the context of the aforesaid issue, Section 55 would have to be revisited, the said provision has already been reproduced in the earlier part of this Judgment. The said provision as can be seen can be invoked against the movement or encampment of any gang or body of persons in the area of a Commissioner in the commissionerate area, in a district by the District Magistrate, the Sub-Divisional Magistrate or the Superintendent empowered by the State Government in that behalf. Therefore the sine-qua-non for Section 55 to apply is the movement or encampment of any gang or body of persons. Hence the Section contemplates that there has to be a collective action or concerted action on the part of the gang members. Only when there is a

collective or concerted action that the action of dispersal or removal of each of the gang members can be taken. The word “gang” has not been defined in the police act. It would therefore be useful to refer to the dictionary meaning of the said word “gang”.

Black's Law Dictionary “Gang” means :-

“A group of persons who go about together or act in concert, esp. for antisocial or criminal purposes” .

Oxford Dictionary “Gang” means :-

“an organized group of criminals or disorderly young people”.

Hence going by the dictionary meaning of the word “gang” the same also indicates that a gang has to be a collection of persons or a body of persons who are acting in concert towards a common unlawful object and, just because an offence is registered against a gang leader and one member of a gang would not mean that they constitute a gang so as to come within the sweep of Section 55 of the police act. Even the meaning of the word “gang” in the Law Lexicon on which the learned Additional Public Prosecutor sought to place reliance cannot be said to be in deviation to the meaning in the other dictionaries as above. In fact the learned Additional Public Prosecutor sought to rely upon a line from the meaning in the Law Lexicon which in our view would be reading the said line out of context.

It is required to be noted that in all the above Petitions, the offence under the gambling act is registered against the gang leader “A” with the alleged member of the gang being “B”, against “A” with “C”, “A” with “D”, “A” with “E”, but not against A, B, C, D, or E collectively or even against a substantial number of gang members collectively. It is also required to be noted that in some cases the offence registered against “A” and “B” is much anterior in point of time to the offences registered against “A” and “E” and therefore there is no proximity between the offences and therefore the test of there being a collective participation is not satisfied as they are all individualistic cases registered against the alleged gang leader and a member.

22 The learned Additional Public Prosecutor Mrs. A S Pai on the basis of the facts which are involved in each of the above Writ Petitions sought to distinguish the facts in Writ Petition No.1546 of 2018 and Writ Petition No.5113 of 2017. It was the submission of the learned Additional Public Prosecutor that in so far as the said two Writ Petitions are concerned, the cases registered against the gang leader and the gang members which are adverted to in the show cause notices disclose that more than one offence is registered under the gambling act against the alleged gang leader Altaf Rajekhan Pathan and the gang member Shahid Aslam Pathan and, the gang leader Altaf Rajekhan Pathan and the gang member Ramdas Rajaram Keware in Writ

Petition No.1546 of 2018. In so far as Writ Petition No.5113 of 2017 is concerned, more than one offence is registered against the alleged gang leader Ajij Mehbub Shaikh and the gang member Taimur Liyakat Shaikh, gang leader Ajij Mehbub Shaikh and the gang member Tejas Dattatray Ghalage and the gang leader Ajij Mehbub Shaikh and the gang member Dattatray Gunda Pawar. Reliance is sought to be placed on the Division Bench judgment of this Court in **Balu alias Balasaheb Jagannath Jadhav's** case (supra).

23 We have gone through the FIRs which have been registered in the said two Writ Petitions. No doubt there are one or more cases registered against the gang leaders and the gang members in the said two Writ Petitions, however, there is no case registered collectively against all the members who allegedly constitute the gang or even a substantial number of them. In our view, therefore, the said cases also fall short of the requirements of there being a collective participation by all the gang members in the unlawful activity. Hence in our view, the said cases cannot be differentiated from the other cases which as indicated above are involving the singular cases only against the alleged gang leader and a member and not collectively against all the members who constitute a gang or at least a substantial number of them.

The reliance placed on the judgment of the Division Bench in **Balu alias Balasaheb Jagannath Jadhav's** case (supra) is misplaced, as the said

judgment is turning on the facts of the said case where offences were registered not only under the gambling act but also under the Indian Penal Code against the Petitioner who was the gang leader and the other five members of the case. In the facts and circumstances of the case, the Division Bench held that the requirements of Section 55 of the police act were fulfilled. Pertinently the issue as to what would constitute a “gang” was not required to be addressed by the Division Bench.

24 Now coming to the judgment of the Division Bench of this Court **Ahammad Mainuddin Shaikh's** case (supra). In the said case the facts were that the offences were registered against the gang leader and one member of the gang and no offences were registered collectively against all the gang members. It is in the said context that the Division Bench held that the Petitioner in the said Petition and the other members did not constitute a gang as there is no collective participation by the gang leader and the alleged members. The said judgment is holding the field since the year 2013. A similar note was sounded by the Division Bench in **Vijay Lalso Jadhav's** case (supra).

The facts in the case of **Ahammad Mainuddin Shaikh** (supra) can be said to be identical to the facts in the instant cases, as in the instant cases also the offences under the gambling act have been individually registered against the gang leader and one member as can be seen from the show cause

notices which are issued to the Petitioners in all the above Writ Petitions. There is no offence registered against all the gang members collectively or even against a substantial number of the members collectively so as to constitute a gang. In our view, therefore the Petitioners in all the above Writ Petitions can hardly be said to constitute a gang so as to entitle the authorities to invoke the provisions of Section 55 of the police act. Hence it would have to be held that there is an absence of the essential jurisdictional fact of there being a gang, so as to entitle the authorities to exercise powers under Section 55 of the police act. In our view, since the externment order impinges upon the personal liberty of an individual, the provisions have to be strictly construed and by a convoluted process the provisions cannot be made applicable.

25 In so far as Writ Petition No.4953 of 2017 is concerned, a submission was also made that the in-camera statements which have been referred to in the show cause do not contain the particulars for the Petitioner to make an effective representation against the show cause notice and therefore the order of externment is vitiated on the said ground. In support of the said contention reliance is placed on the judgment of the Division Bench of this Court (Coram A.S.Oka & S.C.Gupte, JJ) in *Criminal Writ Petition No.3544 of 2013* in the matter of *Imtiyaz Afzal Hussain Shaikh v/s. The Asst. Commissioner of Police, Wanavadi Division, Pune and ors* dated 04/12/2013. A contention was also raised that extraneous material has been

taken into consideration whilst passing the order of externment. In support of which contention reliance was placed on the judgment of the Division Bench of this Court reported in 1980 Cri.LJ 1547 in the matter of Ganu v/s. M. V. Chitale and another. As also the contention that the in-camera statements have been referred to in the externment order though they are not part of the show cause notice for which reliance is placed on the judgment of a Division Bench of this Court in 2015 ALL MR (Cri.) 2936 in the matter of Rajwardhan Babaso Patil & ors. V/s. Vijaysinha Jadhav & ors. Though such contentions have also been raised in some of the other Writ Petitions, it is not necessary for us to dvelve into the said contentions as we are of the view that the basic requirement of there being a gang or a body of persons is not satisfied in the instant cases, the Petitioners would therefore have to succeed on the said ground.

26 For the reasons afore-stated the above Writ Petitions are required to be allowed and are accordingly allowed. The orders passed by the Externing Authority as well as the Appellate Authority i.e. the Divisional Commissioners are quashed and set aside. Resultantly Rule is made absolute in the above Writ Petitions as follows :-

- [1] Writ Petition No.2454 of 2018 in terms of prayer clause (a).
- [2] Writ Petition No.275 of 2018 in terms of prayer clause (a).
- [3] Writ Petition No.305 of 2018 in terms of prayer clause (a).

- [4] Writ Petition No.1359 of 2018 in terms of prayer clause (a).
- [5] Writ Petition No.1546 of 2018 in terms of prayer clause (a).
- [6] Writ Petition No.4849 of 2017 in terms of prayer clause (a).
- [7] Writ Petition No.4850 of 2017 in terms of prayer clause (a).
- [8] Writ Petition No.5113 of 2017 in terms of prayer clause (a).
- [9] Writ Petition No.5339 of 2017 in terms of prayer clause (a).
- [10] Writ Petition No.4953 of 2017 in terms of prayer clauses (a) & (b).
- [11] Writ Petition No.4820 of 2017 in terms of prayer clause (b).
- [12] Writ Petition No.5455 of 2017 in terms of prayer clause (b).
- [13] Writ Petition No.5116 of 2017 in terms of prayer clause (b).
- [14] Writ Petition No.5040 of 2017 in terms of prayer clauses (a) & (b).
- [15] Writ Petition No.1025 of 2018 in terms of prayer clauses (b) & (c).
- [16] Writ Petition No.2164 of 2018 in terms of prayer clause (A).
- [17] Writ Petition No.1625 of 2018 in terms of prayer clause (a).
- [18] Writ Petition No.4934 of 2017 in terms of prayer clause (a).
- [19] Writ Petition No.4945 of 2017 in terms of prayer clause (a).
- [20] Writ Petition No.5055 of 2017 in terms of prayer clause (a).
- [21] Writ Petition No.61 of 2018 in terms of prayer clause (a).

The parties are left to bear their respective costs.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

**Laxmikant
Gopal
Chandan**

Digitally signed
by Laxmikant
Gopal Chandan
Date: 2018.08.24
12:15:18 +0530

lgc This judgment and order is corrected pursuant to the speaking to the minutes of the order dated
10/08/2018 passed in Criminal Writ Petition No.4953 o 2017.

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