

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

CRIMINAL WRIT PETITION NO.2936 OF 2018

Manik Ananta Patil

.. Petitioner

Vs.

State of Maharashtra & Anr.

.. Respondents

.....

Mr.N.N. Gawankar a/w. Mr.Manas Gawankar, Advocate for the Petitioner.

Mrs.P.P. Shinde, APP for the Respondent – State.

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**CORAM : B. P. DHARMADHIKARI AND
PRAKASH D. NAIL, JJ.**

DATE : MARCH 18, 2019.

P.C.:

Order dated 31st January, 2014, categorizing petitioner in Category 6(A) of 15th March, 2018 Guidelines and holding that he has to put in 28 years in jail is questioned on the ground that the impugned order itself shows that murder was on account of land dispute and hence, clause 2(b), is attracted. Contention is that, at the most, petitioner could have been categorised under it and directed to suffer imprisonment for 24 years. Our attention is also invited to other Clauses to show how and why the same are not applicable.

the trial of petitioner was under TADA, he was acquitted by trial Court, but, ultimately convicted by the Apex Court. She submits that the dispute was in relation to land available for development and its acquisition. She further submits that Clause 2(b) is not relevant at all.

3 The order dated 31st January, 2014, impugned before us does not show that petitioner was member of any gang and in that capacity he has committed murder. Impugned order does not show that the petitioner personally had interest in land dispute. He, as a member of gang assisted cause of somebody else.

4 Judgment of Apex Court *prima facie* shows that there was dispute between two gangs about the acquisition of right to land survey no.110 and that dispute lead to murder.

5 We therefore find application of mind in impugned order. Insufficient. Reasons recorded in impugned order cannot be substituted or supported by any affidavit.

6 In this situation, we are inclined to direct the State Government to pass a speaking order afresh after considering the necessary facts having bearing on the subject.

7 To facilitate this exercise, we quash and set aside the impugned order dated 31st January, 2014. The matter is restored back to respondents for passing fresh order within four weeks. Needless to mention that observations made supra are only for the purpose of pointing out the non application of mind and respondent Authority is free to reach its own conclusions after considering the entire material.

8 The Authority to extend opportunity of hearing, if it so finds necessary to the petitioner or his advocate. Accordingly, the petition is partly allowed and disposed of.

9 No costs.

(PRAKASH D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)