

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

WRIT PETITION NO.5724 OF 2018

Nasrulla Noormohammed Ansari ...Petitioner

vs.

The Dy. Commissioner of Police Zone-II, Thane
and Anr. ...Respondents

Mr.Udaynath Tripathi for the Petitioner.
Mr. A. D. Kamkhedkar, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
DATE : 07/03/2019.**

P.C.:

. Short ground raised by advocate Tripathi to assail order of externment dated 5/6/2018 is the impugned order no where records subjective satisfaction mandated by section 56(1)(b) of Maharashtra Police Act. About two in-camera statements of witnesses A and B, he submits that respondent No.1 who has passed the impugned order has generally observed that there was terrorism by the petitioner and general public was therefore unwilling to come forward and depose. There is no specific finding about such unwillingness on part of or fear felt by the concerned in-camera witnesses.

2. Learned APP has relied upon reply affidavit and states that consideration by Respondent No.1 in paragraph No.4 shows that he has verified all in-camera statements and then reached his satisfaction.

3. Paragraph No.4 of the order shows that the Assistant Police

Commissioner East Division Bhiwandi who conducted primary inquiry had himself verified in-camera statements. Opportunity to explain was accorded to the petitioner thereafter. Because of this position on record, Respondent No.1 has concluded that the petitioner had created terror in the region and because of that fear or apprehension people were not coming forward to depose. He has observed that this conclusion is supported by in-camera witnesses.

4. Mode and manner in which Assistant Police Commissioner completed verification is not brought on record and respondent No.1 does not record any satisfaction on that exercise.

5. The impugned order therefore shows acceptance of opinion of his subordinate by respondent No.1 on conduct of these witnesses. It nowhere shows finding of refusal by in-camera witnesses to come forward in public against the petitioner due to apprehensions on their part.

6. We therefore find impugned order dated 5/6/2018 unjustifiable. It is quashed and set aside. Consequently, the appellate order passed by Respondent No.2 dated 12/9/2018 is also quashed and set aside. Rule is made absolute. No costs.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)