

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 851 OF 2019

Aleem Khan Salim Khan

..VS..

Divisional Commissioner, Amravati, District Amravati and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.V. Navlani, Adv. for the petitioner.

Shri S.P. Deshpande, A.P.P. for the respondents.

CORAM : Z.A. HAQ AND
PUSHPA V. GANEDIWALA, JJ.

DATED : 09th OCTOBER, 2019

Heard.

Exercising powers under Section 56(1) of the Maharashtra Police Act, 1951 (hereinafter referred to as "the Act of 1951"), the respondent No. 2 – Sub-Divisional Magistrate has externed the petitioner from the limits of Amravati district for a period of seven months from the date of service of the order on the petitioner.

The order passed by the respondent No. 2 – Sub-Divisional Magistrate is dated 20/03/2019. The petitioner had filed appeal under Section 59(1) of the Act of 1951 which is dismissed by Divisional Commissioner.

Though reply is not filed by the respondents, learned Additional Public Prosecutor has argued the matter on the basis of the documents filed by the petitioner on record of this petition. The crime chart on record shows that

nine crimes for offences under the Indian Penal Code and the Arms Act are registered against the petitioner since 2009.

In 2015, one crime for the offences punishable under Sections 353, 186, 143 and 506 of the Indian Penal Code was registered. In 2016, one crime for the offence punishable under Section 395 of the Indian Penal Code was registered. In 2017, one crime for the offences punishable under Sections 307, 326, 323, 504, 120B, 148 and 149 of the Indian Penal Code was registered, and in 2018, one crime for the offences punishable under Sections 294 and 506 of the Indian Penal Code was registered.

We find that the relevant aspects are examined by the Sub-ordinate authorities.

Though it is argued on behalf of the petitioner that in three cases i.e. Crime No. 3102/2010, Crime No. 140/2011 and Crime No. 3058/2011, the petitioner is acquitted, still the Sub-Divisional Magistrate has given undue weightage to those crimes, considering that prosecution in those crimes was pending against the petitioner.

Learned Additional Public Prosecutor has pointed out that learned Divisional Commissioner has rightly considered the factual aspects and it is recorded in the order passed by him that in three cases, the petitioner is acquitted.

We find that even otherwise, the acquittal of the petitioner in above referred three crimes is not relevant inasmuch as in the crimes registered against the petitioner in 2015, 2016, 2017 and 2018, the prosecution is still pending

and we have to consider the live link between recent crimes registered prior to passing of the impugned order.

In the facts of the case, we are not satisfied that the petitioner has made out case for interference by this Court in the extraordinary jurisdiction.

Hence, the writ petition is **dismissed**. No costs.

JUDGE

JUDGE

D.S. Baldwa