

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

**WRIT PETITION NO.1659 OF 2019**

Mohamad Yusuf Mohmad Ibrahim Momin @  
Yusuf Raza

... Petitioner

V/s.

The Dy. Commissioner of Police and Ors.

... Respondents

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Mr. Udaynath Tripathi a/w. Jayshree Tripathi for the Petitioner.  
Mr. K. V. Saste, APP for the Respondent/State.

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**CORAM : B.P. DHARMADHIKARI &  
N.R. BORKAR, JJ.**

**DATE: 14/2/2020.**

**PC.**

. Though contentions right from non application of mind to absence of material and lack of live link have been raised on record by learned counsel for the petitioner, we find that the Authorities have relied upon relevant material to order externment of the petitioner out of district of Thane, Brihan Mumbai and suburbs of Mumbai for period of 2 years. This order dated 28/12/2018 passed by Deputy Police Commissioner has been upheld in appeal by the Divisional Commissioner, Konkan Division, Mumbai on 11/3/2019.

2. Externment is under section 56 (1) (a) (b) of Maharashtra Police Act, 1951. Offences mentioned are of the year 2006 and 2017. Last offence in the year 2017 is dated 15/12/2017. The petitioner has been served with show cause notice dated 6/11/2018 in above

mentioned sections by the Assistant Police Commissioner. There is another notice dated 11/12/2018 by Deputy Police Commissioner. The contents in both notices are identical.

3. The show cause notice as also impugned order mention two crimes of the year 2006 and three crimes of the year 2017.

4. The in-camera statements of witnesses A and B have been relied upon. In statement of witness B there is no reference of any date at all. Insofar as witness A is concerned date 19/10/2018 appears.

5. However, verification of these in-camera statements as warranted by law is missing. The Authority passing an order has to record its subjective satisfaction that witnesses were, because of terror spread by the petitioner not willing to come forward and to depose in open. Exercise necessary for this verification has not been brought on record in any order by the Authority.

6. Thus, in-camera statements allegedly brought on record need to be discarded.

7. Therefore after more than one year of last of the offences externment has been ordered, live link is therefore apparently missing.

8. In this situation, we quash and set aside the order dated 28/12/2018 passed by Deputy Commissioner of Police, Zone-II, Bhiwandi as also the appellate order passed by the Divisional

Commissioner, Konkan Division, Mumbai dated 11/3/2019. Needless to mention that it is open for Authorities to proceed further in accordance with law in the matter.

**(N.R. BORKAR, J.)**

**(B.P. DHARMADHIKARI, J.)**