

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 625 OF 2023

Pratapsinh Baban Shendage and Anr ...Petitioners

Versus

The State of Maharashtra ...Respondent

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Mr. V. S. Undre, Advocate for the Petitioners.

Mr. V. S. Badakh, APP, for the Respondent – State.

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CORAM: R.M. JOSHI, J

RESERVED ON: NOVEMBER 03, 2023

PRONOUNCED ON: NOVEMBER 07, 2023

ORDER :

1. Petitioners are aggrieved by Order of Externment dated 10.04.2023 passed by the Divisional Commissioner, Aurangabad in Appeal No. Enternment/ CR-39 of 2023 confirming the Order of Externment dated 27.02.2023 passed by the Superintendent of Police, Osmanabad directing their externment from Osmanabad District for the period of 55 days under Section 56 of Maharashtra Police Act, 1951.

2. The facts which led to the filing of the present Petition may be narrated in nutshell as under:

It is the case of the Petitioners that, show

cause notice came to be issued as per the provisions of Section 59(1) of Maharashtra Police Act, 1951 to the Petitioners on 27th July, 2022 vide letter no. Haddapar/5203/2022 Sub-Divisional Police Inspector i.e. enquiry officer, Osmanabad making allegations that, they are indulged in various crimes which are punishable under Chapter XII, XVI & XVII of Indian Penal Code and are liable to be externed for the period of 2 years. The said show cause notice was served to the Petitioners on 09.02.2023 and they had filed their written statements on 17.02.2023 stating that, they are not indulged in the said crimes and the said offences are motivated from grudge and to unnecessarily involving the Petitioners in such crimes to defame them. The Petitioners claimed to have not formed any gang or troop or none of the Petitioners is the head of any such gang to commit offences and create fear in the mind of public. None of the offences alleged against the Petitioners is proved or confirmed against the Petitioners and it is not the case that, Court has convicted and punished any of the Petitioners till today. The Petitioners are innocent until the offence has been proved against them.

The said Investigating Officer had enquired the matter and submitted his report on 31.01.2023 by hearing & taking on record the written statements filed by the accused and recording and scrutinising the confidential statements of witnesses 'A' & 'B' and has recommended to extend the Petitioners at least for the period of 2 years from districts Osmanabad, Latur, Solapur.

3. Amongst other submissions, counsel for the Petitioners submits that, Petitioner No. 1 is resident of Mukund Nagar, District Osmanabad doing business of Kaira Mineral Water (Drinking water Agency) and is a member of well-educated family, his father is teacher and mother is housewife. The Parents of the Petitioner No. 1 are dependent on the business run by the Petitioner. The maternal uncle of the Petitioner No. 1 is politician hence holding grudge against him the said crimes are came to be filed and are inspired from Political influence and registered only to defame the present Petitioners. As far as Petitioner No. 2 is concerned, it is argued that, he is resident of Tambari Vibhag, Dist. Osmanabad doing business of Glass and

Steel Railings and is a student. The father of the Petitioner No. 2 is farmer, mother is no more and his elder sister is pursuing her education. He claimed that, petitioners are not indulged in any serious crime, and that offences which are registered against them are out of grudge and only to defame their & family's image in the eyes of society which would affect their businesses.

4. Learned APP opposed said contentions by referring to material placed on record. It is contended that, there is more than sufficient evidence to prima facia hold that, the Petitioners are part of a gang which has created terror in the area. It is submitted that, the number & nature of offences registered against Petitioners are sufficient to invoke provisions of Section 56 of the Act.

5. From rival contents and material placed before the Court indicates that, for the Purpose of Externment of the Petitioners following offences are relied upon:

Sr. No.	Crime No. & Police Station	Sections	Case No. & Stage	Petitioner No.
1	264/2019 Osmanabad City PS	324, 323, 504, 34 of IPC	RCC/328/2020 N.B.W. - Ready	1 & 2
2	346/2021 Osmanabad City PS	324, 323, 143, 147, 148, 149, 504, 506 of IPC	RCC/307/2022 Appearance	1 & 2
3	451/2018 Osmanabad City PS	324, 323, 147, 148, 149 of IPC	RCC/73/2019 Disposed	1 & 2
4	69/2019 Anandnagar PS	326, 327, 504, 143, 147, 148, 149 of IPC & 135 MCOC Act	RCC/927/2020 Appearance	1

This indicated that, offences are registered against them in the different Police stations. It is also pursuant to note that, the accused persons in most of the offences taken in to consideration by the Authority, are common. Thus there is sufficient evidence to infer the accused persons including the Petitioners are operating a gang. The crimes registered against the Petitioners are of serious nature and against the human body and creating terror in the mind of public. This is also supported by confidential statements of witnesses on record which indicates that, due to intimidation, threats & nuisance created by the Petitioners they are not ready to come forward to lodge

complaints against the Petitioners. There is live link & proximity between crimes and Order of externment. The Order of externment is passed on subjective satisfaction of authority after taking in to consideration material on record objectively. The Order also does not suffer from the excessiveness.

6. At the outset, it needs to be considered to what extent Orders impugned can be interfered with. In case of Deepak Laxman Dongre Vs. State of Maharashtra and Others, AIR 2022 SC 1241 Hon'ble Apex Court in paragraph 10 of the judgment has observed that the Court cannot cause interfere in administrative order only because there is a possibility of another view being taken. In case of any other administrative order, the judicial review is permissible only on the grounds of mala fides, unreasonableness or arbitrariness. Thus it is clear that, unless Orders are activated by malice or perverse, due to non support of evidence on record or excessive, can be interfered and not otherwise.

7. In the facts and circumstances of the case, appellant authority had no reasons to interfere in the said Order of externment. In the result, challenge to

these Order must fail.

8. Petition stands dismissed.

(R. M. JOSHI, J.)

Malani