IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3762 OF 2025

Shubham Dattatray Phuge ...Petitioner
Versus
State of Maharashtra & Anr ...Respondents

SANTOSH SUBHASH KULKARNI

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Date: 2025.11.27 14:59:27 +0530

Mr. Samay Pawar, for the Petitioner.
Mr. P. P. Mulshe, APP, for the Respondent-State.

CORAM: N. J. JAMADAR, J.
DATED: 24th NOVEMBER, 2025

Order:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. The petitioner takes exception to an externment order passed by the Deputy Commissioner of Police, Zone-II, Pimpri-Chinchwad, Pune, thereby externing the petitioner from the limits of Pimpri-Chinchwad Police Commissionerate, Pune Police Commissionerate and Pune Rural Police jurisdiction, for a term of 24 months under Section 56(1)(b) of the Maharashtra Police Act, 1951 ("the Act, 1951").

3. The exterment order records that the following three crimes were registered against the petitioner:

Sr. No.	Police Station	CR No.	Sections	Date of registration	Status
1.	Bhosri	484/2021	S.302 of IPC, S.4(25) of the Arms Act and S.37(1)(3) a/w 135 of Maharashtra Police Act.	26.07.2021	Pending
2.	Bhosri	184/2024	S.143, 147, 148, 149, 427, 336, 452, 435, 332 of the Arms Act, S.37(1)(3) r/w 135 of Maharashtra Police Act and S.7(1)(a)(b) of Criminal Law Amendment Act	01.06.2024	Pending
2.	Bhosri	109/2023	S.324, 323, 504 and 506 of IPC	23.04.2013	Pending

4. Alleging that in view of the registration of the aforesaid three crimes and initiation of the prohibitory action under Section 110 of the Code of Criminal Procedure, 1973 ("the Code"), there were reasonable grounds for believing that the petitioner was engaged or was about to be engaged in the commission of offences involving force and violence or offences punishable under Chapter XVI or XVII of Indian Penal Code (IPC), and the witnesses were not willing to come forward to give evidence in public against the petitioner for fear of the safety of their person or property, show cause notices were served on the petitioner under Section 59 of the Act, 1951 on 31st October, 2024 and 6th November, 2024.

5. Noting that the petitioner did not appear before the Competent Authority despite service of the notice by pasting,

the Competent Authority passed impugned order observing, *inter alia,* that the petitioner had created a reign of terror and the witnesses were not coming forward to give evidence in public apprehending threat to their person or property, the Competent Authority ordered the externment of the petitioner from the limits of Pimpri-Chinchwad Commissionerate, Pune Police Commissionerate, and Pune Rural Police jurisdiction, for the term of 24 months.

6. Being aggrieved, the petitioner has invoked the writ jurisdiction.

7. I have heard Mr. Samay Pawar, the learned Counsel for the petitioner, and Mr. Malshe, the learned APP, for the State.

8. Initially, the learned APP made an endeavour to urge that the petitioner be directed to exhaust the statutory remedy of appeal before the Divisional Commissioner, under Section 60 of the Act, 1951. In the face of an efficacious statutory remedy, this Court may not entertain the petition, urged Mr. Malshe.

9. Mr. Pawar joined the issue by forcefully canvassing a submission that the petitioner was constrained to invoke the writ jurisdiction as the impugned order is based on two crimes in which the petitioner has not been arraigned as an accused. It was submitted that the petitioner is not an accused in CR

No.184 of 2024 and CR No.109 of 2023 (Sr. Nos.1 and 3 in the table extracted above). As the Competent Authority has passed the impugned order on the basis of extraneous material which has no nexus with the petitioner, the impugned order suffers from complete non-application of mind and even beyond the province of the statutory authority under Section 56(1)(b) of the Act, 1951. Thus, the availability of alternate statutory remedy cannot be an impediment in entertaining the petition, submitted Mr. Pawar.

10. It is trite, the availability of an alternate remedy is a self-imposed restraint on the exercise of writ jurisdiction. Mere availability of a statutory remedy does not denude the High Court of the plenary jurisdiction. If it could be demonstrated that the impugned order has been passed in flagrant violation of fundamental principles of natural justice or the order is in breach of express statutory provisions or beyond the jurisdictional competence of the authority, the High Court can entertain the petition despite the existence of the alternate remedy. A useful reference can be made to the decision of the Supreme Court in the case of ***Whirlpool Corporation vs. Registration of Trademarks***[1]***.***

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1 (1998) 8 SCC 1.

11. In the case at hand, it is distressing to note that two crimes i.e. CR No.184/2024 and CR No.109/2023 arrayed against the petitioner were, in fact, not registered in the year 2024 and 2013, respectively. CR No.184 was registered the year 2014, and CR No.109 in the year 2013. This fact becomes abundantly clear from the show cause notice dated 31st October, 2021, which specifically records that those crimes were registered in the year 2014 and 2013, respectively. In contrast, in the impugned order, it was shown that those crimes were registered in the year 2024 and 2023, respectively.

12. In the face of the aforesaid record, Mr. Malshe, the learned APP, fairly submitted that the above-numbered crimes were not registered against the petitioner in the year 2024 and 2023 respectively. The copies of the charge-sheet in those crimes were tendered for the perusal of the Court.

13. The impugned order is thus vitiated by total non-application of mind. If the crimes were registered in the year 2014 and 2013, respectively, there could be not be a semblance of live link between those crimes and the action of externment. The show cause notice itself was unsustainable. The Competent Authority committed a grave error in considering those two crimes registered a decade back as the crimes registered in the

year 2024 and 2023 and, on that basis, passing the externment order. Resultantly, the externment order deserves to be quashed and set aside.

14. Hence, the following order:

: O R D E R :

(i) The petition stands allowed.

(ii) The impugned order of externment stands quashed and set aside.

(iii) Rule made absolute.

[N. J. JAMADAR, J.]