

High Court of Madhya Pradesh, Jabalpur
Bench at Indore

BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 1ST OF SEPTEMBER, 2022

Writ Petition No.9612/2022

Between: -

Sanjay Maratha

(By Shri Aditya Choudhary, Advocate)

.....PETITIONER

AND

The State of Madhya Pradesh,
Through Principal Secretary, Home Department,
Government of Madhya Pradesh,
Vallabh Bhawan, Bhopal (MP) 462 001

The Commissioner,
Ujjain Division,
Ujjain, District Ujjain (MP)

The District Magistrate (Collector),
Collector Office,
Ujjain, District Ujjain (MP)

The Superintendent of Police,
Ujjain, District Ujjain (MP)

(By Shri Valmik Sakargayen, Government Advocate)

.....RESPONDENT

.....

This **petition** coming on for orders this day, the court passed the following:

ORDER

With the consent of the learned counsel for the parties heard

finally.

This writ petition has been filed by the petitioner under Article 226 of the Constitution of India against order dated 18.04.2022, passed in Case No.0118/2021-22/Appeal by the Commissioner, Ujjain, District Ujjain (MP) affirming order of externment dated 07.12.2021, passed by the Collector & District Magistrate, Ujjain, District Ujjain (MP) under the provisions of Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 (hereinafter referred to as the Adhiniyam of 1990).

2. In brief, the facts of the case are that the petitioner is a resident of Ujjain and has around (12) twelve criminal cases registered to his credit, committed by him during the period from the year 2001 to 2020, the last offence being committed by him on 27.06.2020. The case of the petitioner is that he was served with a notice under Section 5 (a) (b) of the Adhiniyam of 1990 for his externment for a period of one year from District Ujjain. A reply to the aforesaid notice was also filed by the petitioner, contending that in most of the cases registered against him, he has already been acquitted and he has not committed any offence since 26.06.2020. However, this did not find favour with the District Magistrate, Ujjain, who, vide its order dated 07.12.2021 (Annexure P/3), has passed the order of externment holding that the criminal activities of the petitioner are likely to cause disrupt harmony of the society thereby restricting his movements in the District Ujjain and the adjoining districts as well.

3. The appeal preferred by the petitioner against the order of his externment was also preferred before the Division Commissioner, Ujjain under Section 9 of the Adhiniyam of 1990, but has also been dismissed, affirming the order passed by the District Magistrate.

4. Shri Aditya Choudhary, learned counsel appearing for the petitioner has submitted that the impugned orders are liable to be set aside, as the petitioner has already been acquitted in 8 (eight) out of 12 (twelve) cases registered against him; and in other 4 (four) cases, the matter is compromised in one case; in one case, he has been imposed fine; and two cases are still pending, or their fate is not known, as these cases are at Crime No.722/2007 registered on 25.12.2007 for offence under Sections 294, 323 and 506 read with Section 34 of the Indian Penal Code, 1860 (herein after referred to as the IPC) and Crime No.217/2011 registered on 31.03.2011, again for committing offence under Sections 294, 323 and 506 read with Section 34 of the IPC. It is submitted that in one serious case, namely at Crime No.81/2001 dated 10.02.2001 for offence under Section 307 read with Section 34 of the IPC, he has already been acquitted and in another case registered at Crime No.453/2019 dated 21.08.2019 for offence under Section 306 of the IPC, he is again acquitted. Thus, it is submitted that there was no occasion for respondent No.3 District Magistrate, Ujjain to pass an order of externment against the petitioner, as he has refrained from criminal activities since 27.06.2020, which is the date of last offence committed by him.

5. Learned counsel for the respondent / State of Madhya Pradesh, on the other hand, has opposed the prayer and it is submitted that no case for interference is made out, looking to the long list of criminal cases registered against the petitioner. However, it is not denied that in most of the cases, he has already been acquitted, but it is submitted that mere acquittal in a criminal case is of no benefit to the petitioner, as he has already established himself as a hardened criminal of the area. Thus, it is submitted that the petition be dismissed.

6. Heard learned counsel for the parties and perused the record.

7. So far as the criminal cases registered against the petitioner are concerned, the same have been narrated in the memo of the petition itself, which reads, under under: -

Sr. No.	Crime Number	Date of Offence	Offence	Outcome / remark
1	81/2001	10.02.2001	307 r/w 34 of IPC	Acquittal
2	384/2002	04.06.2002	341, 294, 323 & 506 r/w 34 of IPC	Acquittal
3	387/2003	06.06.2003	294 & 506 of IPC	
4	384/2006	28.06.2006	341, 294, 323 & 506 r/w 34 of IPC	Acquittal – compromise
5	722/2007	25.12.2007	294, 323 & 506 r/w 34 of IPC	
6	361/2009	15.05.2009	452, 354, 323 & 506 r/w 34 of IPC	Acquittal
7	217/2011	31.03.2011	294, 323 & 506 r/w 34 of IPC	
8	326/2013	04.05.2013	452, 324, 323 & 506 r/w 34 of IPC	Fine
9	492/2016	08.07.2016	294, 323 & 506 r/w 34 of IPC	Acquittal – compromise
10	50/2017	23.01.2017	458, 147, 148, 427, 323, 294 & 506 r/w 34 of IPC	Acquittal
11	453/2019	21.08.2019	306 of IPC	Acquittal
12	548/2020	27.06.2020		Acquittal

8. Admittedly the last offence committed by the petitioner was on 27.06.2020, whereas, notice under Section 5 (a) (b) of the Adhinyam of 1990 was issued to the petitioner on 06.04.2021. However, on a close inspection of the aforesaid notice, it is found

that it was alleged to be dispatched on 17.03.2021, which is the date mentioned on the said notice. Thus, the respondents have sat over the aforesaid notice from 17.03.2021 to 06.04.2021 i.e. for a period of almost around 19 (nineteen) days. Thereafter, the Collector has passed order on 07.12.2021 i.e. after a period of 8 (eight) months from the date of notice to the petitioner.

9. This Court, time and again, has emphasized the need to pass an order of externment immediately after the cause of action has accrued in this behalf to the State Authorities. Any undue delay in proceedings under the provisions of the Act to pass an order of externment would defeat the very purpose for which the Act has been brought into force. In this regard, reference may be had to a decision dated **09.01.2018** of this Court in the case of **Sudeep Patel v. The State of Madhya Pradesh, Miscellaneous Petition No.904/2017.**

10. It is also found that the last offence alleged to have been committed by the petitioner was, on 27.06.2020, whereas even the show cause notice was prepared against the petitioner on 17.03.2021, i.e. after around 8 and a half month. Thus, it has taken more than 8 months to the respondents to come to the conclusion, that an order of externment is necessary to curb the criminal activities of the petitioner, whereas the order of externment has been passed on 07.12.2021 i.e. after around 1 ½ (one and half) year from the last offence committed by the petitioner. It is nobody's case that during this period, the petitioner also indulged in criminal

activities.

11. So far as the contention of the petitioner that he has been acquitted in most of the cases is concerned, in the considered opinion of this court, a person having a history of large number of cases (either major or minor) in which he has been acquitted, does not extend him the title of sainthood or glorify his image in public but on the contrary as a human failing, gives him an aura of arrogance and temerity to treat the law with impudence, in such circumstances, merely because the petitioner has been acquitted in most of the cases registered against him, does not entitle him to take advantage of the same in an externment proceedings which is instituted for the '*maintenance of public order and certain other matters connected therewith*', as the preamble of Adhiniyam of 1990 suggests.

12. Be that as it may. The petition deserves to be allowed only on the ground of lack of proximity of the order of externment with the starting point of the cause of action i.e., the last offence committed by the petitioner.

13. In view of the same, impugned order dated 18.04.2022 (Annexure P/1), passed in Case No.0118/2021-22/Appeal by the Commissioner, Ujjain, District Ujjain (MP) as well as order of externment dated 07.12.2021 (Annexure P/3) passed by the Collector & District Magistrate, Ujjain, District Ujjain (MP) cannot be sustained in the eyes of law; and the same are hereby quashed.

14. Accordingly, Writ Petition No.9612/2022 stands **allowed**.

All the other pending interlocutory applications, if any, shall stand **disposed of**.

(Subodh Abhyankar)
Judge

Pithawe RC

