

# Mathiyus vs The State Of Madhya Pradesh on 4 February, 2025

**Author: Subodh Abhyankar**

**Bench: Subodh Abhyankar**

NEUTRAL CITATION NO. 2025:MPHC-IND:2850

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IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR  
ON THE 4<sup>th</sup> OF FEBRUARY, 2025  
WRIT PETITION No. 29627 of 2024  
MATHIYUS  
Versus  
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:  
Shri Anshuman Shrivastava - advocate for the petitioner  
Ms. Mehul Shukla- advocate appearing on behalf of Advocate  
General.

## ORDER

1] This petition under Article 226 of the Constitution of India has been filed by the petitioner, against the order dated 11.09.2024 (Annexure P/14), passed by the respondent no.2/ the Collector/District Magistrate, Jhabua as also the show cause notice dated 20.08.2024 (Annexure P/6), passed by the same authority invoking the powers under Madhya Pradesh Rajya Suraksha Adhiniyam , 1990 (hereinafter referred to the Adhiniyam).

2] The case of the petitioner is that he was initially issued a notice dated 20.08.2024, as to why he should not be externed on account of his criminal activities. A reply to which was also filed by the petitioner contending that earlier also orders of externment were passed against him on 12.09.2013 (Annexure P/1) and 28.01.2020 (Annexure P/4). In the order dated 12.09.2013, the order of externment was reduced to three months by NEUTRAL CITATION NO. 2025:MPHC-IND:2850 2 WP-29627-2024 the Commissioner in appeal; whereas the subsequent notice of externment was cancelled on 28.01.2020, and the same offences have been taken into account in the present show cause notice also. Whereas, after the aforesaid notice was issued by the respondent on 20.8.2024, the crime no.556/2024 has been registered against him on 22.08.2024, which could not have been taken into account in the impugned order. It is also submitted that even otherwise the aforesaid offence was only under Section 228 of Bhartiya Nyaya Sanhita, 2023.

3] Counsel for the petitioner has submitted that in such circumstances, the petitioner has also not availed the remedy of appeal as the order is passed with malafide intention. It is also submitted that the petitioner is a political activist and has been harassed by the respondents. It is further submitted that in connection with Crime no. 556/2024, the petitioner has also submitted certain video clips in which, his presence can be proved to be elsewhere. In such circumstances also, the impugned order is liable to be set aside.

4] A reply to the petition has also been filed by the respondents traversing the averment made in the petition, and it is submitted that since the petitioner has not availed the remedy of appeal before the Commissioner concerned, no case for interference is made out. It is also submitted that the CDR of the mobile number of the petitioner has also been produced wherein, the petitioner's presence has been found on the same place where the subsequent offence bearing crime no. 487/2024 took place.

5] Heard the counsel for the parties and perused the record. 6] From the record, this Court finds that the impugned order has NEUTRAL CITATION NO. 2025:MPHC-IND:2850 3 WP-29627-2024 been passed by the District Magistrate, Jhabua on 11.09.2024. It is apparent from the aforesaid order that all the criminal antecedents of the petitioner have been taken into account, including an offence registered against him on 22.08.2024; whereas in the show cause notice dated 20.08.2024, the District Magistrate, Jhabua has taken into account the cases registered against the petitioner till 23.07.2024, on which date, a case at Crime no. 487/2024 under Sections 294, 327, 506 & 34 of the IPC was also registered against him. Whereas the last offence committed by him was at Crime no.833/2018 dated 26.04.2018, i.e., around six years ago.

7] In the considered opinion of this Court, only a criminal case lodged almost after six years, that too under Sections 294, 323, 327, 506 & 34 of the IPC, which is based on oral allegations only cannot be a ground for externment. Whereas the offences till 26.04.2018, had already been considered by the District Magistrate in his earlier order dated 28.01.2020.

8] In such circumstances, this Court is of considered opinion that while passing the impugned order dated 11.09.2024 (Annexure P/14), the District Magistrate has acted in excess of his jurisdiction in passing the order of externment and taking into account the subsequent offence which was not mentioned in the show cause notice. Thus, the petitioner was not obliged to take recourse of appeal as an alternative remedy.

9] In view of the same, this Court finds force in the contentions raised by the counsel for the petitioner and is of the opinion that the impugned order cannot be sustained in the eyes of law, and thus, is inclined to quash the impugned order.

10] Accordingly, the present petition stands allowed and the impugned orders dated 11.09.2024 (Annexure P/14), as also the show cause notice NEUTRAL CITATION NO. 2025:MPHC-IND:2850 4 WP-29627-2024 dated 20.08.2024 (Annexure P/6) are hereby quashed.

11] With the aforesaid observations, the present petition stands allowed and disposed of.

(SUBODH ABHYANKAR) JUDGE moni