

Gujarat High Court

Ilyas vs The on 9 November, 2011

Author: Ks Jhaveri,

Gujarat High Court Case Information System

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SCR.A/2041/2006 2/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CRIMINAL APPLICATION No. 2041 of 2006

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ILYAS
@ LAKHLO YUSUFBHAI FULANI - Applicant(s)

Versus

THE
STATE OF GUJARAT - Respondent(s)

=====

Appearance
:
MR
DM AHUJA for
Applicant(s) : 1,
MR DM AHUJA for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE KS JHAVERI

Date
: 28/12/2006

ORAL
ORDER

1. The petitioner herein has challenged the order of externment dated 31.8.05 respondent no.2 under section 56(C) of the Bombay Police Act, 1951, whereby the petitioner was externed from the limits of Rajkot city, Rajkot Rural, Surendranagar and Jamnagar districts for a period of two years.
2. The externing authority observed that the petitioner is a head-strong person and is indulged in criminal activities including extorting money from Contractors.
3. The externment order was carried in appeal by the petitioner by way of Appeal which came to be dismissed.
4. Learned Advocate for the petitioner assailed the impugned orders on the ground that there was inordinate delay in passing externment order. The impugned order has been passed on 31.8.05 and therefore there is a delay of three and half years. He further submitted that there is only one offence registered against the petitioner and therefore such a harsh punish should not have been imposed by the authority.
5. Learned AGP appearing for the respondents submitted that the petitioner is in the habit of indulging in activities which are detrimental to public order and therefore the authority has rightly passed the order of externment and no interference may be caused in this petition.
6. As a result of hearing and perusal of the record it is clear that the alleged offence was in the year 2004 and the impugned order has been passed in the year 2005. It is also required to be noted that only one offence has been registered against the petitioner. Merely by registering one offence against the petitioner it cannot be said that the petitioner activities of the petitioner are detrimental to public order and he would continue to do his activities. Looking to the fact that this was the first offence committed by the applicant under the Act, he ought to have been given some room for self improvement and a liberal view should have been taken by the competent authority. I am therefore of the view that externment of two years is harsh looking to the offence alleged against the applicant. On the overall facts and circumstances of the case, I am of the opinion that the externment order imposing a penalty of one year would have been just and proper.

8. In view of the above, the application is partly allowed. The externment period of two years imposed by the authority is reduced to one year. The impugned order is modified accordingly. However, it is made clear that if the applicant indulges in the same offence again, it will be open to the authority to pass appropriate orders considering his past background and in such event this order shall not be treated as precedent even for the applicant for future conduct. Rule is made absolute to the aforesaid extent.

(K.S.JHAVERI,J) mary// Top