

(1987) 02 AHC CK 0085
In the Allahabad High Court
Case No : Criminal Revision No. 331 of 1987

Bhan Chand and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 25-02-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 111, 116, 397, 401

Citation : (1987) 11 ACR 421

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : Vijai Prakash, for the Appellant;

Final Decision : Dismissed

Judgement

B.L. Yadav, J.—This is a revision u/s 397/401 of the Code of Criminal Procedure, 1973 (for short the Code) directed against the order dated 15-1-87 passed by the Sub-Divisional Magistrate, Akbarpur, Kanpur Dehat directing the applicants to show cause as to why not they should execute bonds of Rs. 2000/- each to maintain peace for a period of two years.

2. Learned Counsel for the applicants urged two points. The first point was that the substance of the information was not given as required by Section 111 of the Code. Reliance was placed on Sartaj v. State of U.P. 1983 AWC 14. The next point was that the joint notice for showing cause must not have been given to the applicants, rather separate notices must have been given to each and every applicant consistent with the provisions of Section 111 of the Code.

3. As regards the first point, it is clear from the impugned order that there was an enmity between the complainant and the applicants, who were opposite parties, which has given rise to the apprehension of the breach of peace. This was the substance of information which was mentioned in the impugned order, and I am satisfied that this was in complete compliance of the provisions of Section 111. In the case of Sartaj v. State U.P. (Supra), the Magistrate was

satisfied on the report of the Tahsildar and he did not apply his mind nor he made mention about the substance of the information. Hence that case is besides the point.

4. As regards the second point that the joint notice must not have been given to all the applicants, suffice it to say that if the allegations against the applicants or the opposite parties against whom action under Sections 107/116 of the Code is proposed, are similar, in that case similar notice would be given and there would be no illegality. Nothing has been shown as to how the allegations against each of the applicants were different or contradictory. As there was nothing on the record to indicate that there were separate and contradictory allegations against the applicants, the composite notice against all of them was perfectly correct.

5. It was next urged that the past act of the opposite parties or the prea applicants cannot be taken into account. Nothing has been shown as to what w the recent acts and what were the past acts. The substance of the not only reads that old enmity appears to be the basis for the apprehension of the breach of peace. There is nothing either u/s 107 or u/s 111 of the Code which could indicate that the old enmity cannot be taken into account if it really forms the basis for the apprehension of the breach of peace.

6. The present revision accordingly has got no force and the same is accordingly dismissed.