
(1983) 03 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Revision Petition No. 72/83

Jagtar Singh and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 18-03-1983

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 108, 109, 110, 111

Citation : (1983) WLN 117

Hon'ble Judges : Kanta Bhatnagar, J

Bench : Single Bench

Judgement

Kanta Bhatnagar, J.—Heard learned Counsel for the parties. Admit, Issue notice. Mr Udawat, learned Public. Prosecutor accepts notice on behalf of non petitioner No. 1 and Mr L. R. Calla on behalf of non petitioner No 2 at the request of the learned Counsel for the parties the matter has been finally heard today.

2. Mr. Calla raised a preliminary objection that all that the impugned order speaks is a direction to the non petitioners to show cause about the action taken against him, and, therefore, there is no illegality to be challenged by way of filing the revision petition. According to him even if there is any wrong recorded term in the order this point may be raised by the petitioners in that court itself by after putting in appearance in compliance to the notices. Had it been only a question of issuing show cause notice in a proper way, this court would have looked into the matter as to whether an interference in revisional jurisdiction is called for or not? But in the present case the illegality of the order is challenged and in my opinion rightly so. The learned Magistrate has passed the order for registering the case u/s 107-116(3) Cr.P.C. and issue of notice to the petitioners to show cause why they should not be bound down with a surer of Rs. 50/- for keeping good behaviour for a period of six months. Section 107 deals only with taking security for keeping the peace. Section 116(3) empowers the Magistrate to direct the person in respect of whom the proceedings under the provisions Of Section 107 to 110 are initiated to furnish security. If there is any immediate danger of

breach of peace, an order can be passed at any time after the commencement of the proceedings. This section provides for an order, or a direction to the person, proceeded against, for executing personal bond with or without surety to keep peace and maintaining good behaviour both, but proviso to this Sub-section places a bar on giving direction to execute a bond for maintaining good behaviour in cases other than falling under Sections 108, 109 or 110 Cr.P.C. As is evident from the impugned order the case was registered u/s 107 and not under 3 succeeding sections. In this view of the matter the court requiring the petitioners to show cause why they should not be bound down for keeping good behaviour is ex-facie erroneous. Hence the revision petition is allowed to the extent that issuance of notice for maintaining good behaviour is illegal and deserves to be set aside. However it will be open to the learned Magistrate to issue notice in accordance with the relevant provisions.