
(2011) 08 AHC CK 0075

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 23696 of 2011

Nafisul Hasan Naqvi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 110, 111, 482

Citation : (2011) 3 ACR 3026

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Bala Krishna Narayana, J.—Heard Learned Counsel for the applicants and learned A. G. A. for the State.

2. The facts of the case in brief are that an order purporting to be passed u/s 111, Cr. P. C. by the Additional City Magistrate-IIInd, Aligarh asking the applicants to show cause why they may not be required to furnish a personal bond of (Rs.) 1,00,000 and two sureties each in the like amount for maintaining peace and good conduct for a period of three years. Pursuant to this order proceedings u/s 110, Cr. P. C. were initiated against the applicant.

3. The applicant has now approached this Court praying that the order passed by the Additional City Magistrate-IIInd. Aligarh be quashed.

4. Learned Counsel for the applicant has invited my attention to the order passed by the Magistrate u/s 111, Cr. P. C. It has been submitted by Learned Counsel for the applicant that the above order is bad in law and as such the Magistrate could not assume jurisdiction to proceed u/s 110. Cr. P. C. He further submitted that the order is on a cyclostyled proforma with certain blanks which have been filled in with pen and ink by someone and simply initiated by the Additional City Magistrate-IIInd. Aligarh.

5. It is further submitted that the Additional City Magistrate-IIInd, Aligarh has no jurisdiction or authority to proceed on the basis of this void notice and he has placed reliance upon the case of Ranjeet Kumar and Others v. State of V. P. and Others XLV 2002 ACC 627.

6. Considering the aforesaid facts and submissions it is evident that notice under challenge on the ground that the notice suffers from illegality, vagueness of the substance of information received as set forth is wholly incomplete, vague and ambiguous. Notice is wholly defective and invalid. The Additional City Magistrate-IIInd, Aligarh has no jurisdiction to proceed on the basis of this void notice and proceedings pending against the applicant are a nullity without jurisdiction and as the applicant has challenged the validity of the impugned notice on the ground that it does not fulfil the requirements of mandatory provisions of Section 111, Cr. P. C. and, therefore, the notice in question is null and void and the proceedings before the Additional City Magistrate-IIInd, Aligarh are a nullity. It is well-settled that the objective of setting forth in the order, the substance of information received by the Additional City Magistrate-IIInd, Aligarh is to inform the person asked to show cause what allegations he has to answer. If the substance of the information set forth in the notice is vague and ambiguous, the very object of Section 110, Cr. P. C. is defeated.

7. For the aforesaid reasons, the impugned order dated 7.6.2011, passed by the Additional City Magistrate-IIInd, Aligarh is liable to be quashed. The present application u/s 482, Cr. P.C. is allowed. The impugned order dated 7.6.2011, passed by the Additional City Magistrate-IIInd, Aligarh is hereby quashed.