

(1996) 04 AHC CK 0025

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 1418 of 1996

Ram Sumer and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 23-04-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 111

Citation : (1996) 20 ACR 564

Hon'ble Judges : C.A. Rahim, J

Bench : Single Bench

Advocate : Ashok Kumar Bhatt, for the Appellant; A.G.A., for the Respondent

Judgement

C.A. Rahim, J.—By this application, the notice issued u/s 111, Code of Criminal Procedure on 12.4.1996 by the Sub-Divisional Magistrate, Manjhanpur, District Allahabad, has been challenged.

2. It has been submitted that in the notice (Annexure II), substance of the information received has not been mentioned. It has also been submitted that the learned Magistrate did not apply his mind and issued a notice in a "printed form", which is improper in view of Section 111, Code of Criminal Procedure. He has referred the case of Siya Nand Tyagi v. State of U.P. UP Cr R 253.

3. Section 111, Code of Criminal Procedure provides that when a Magistrate is required to take action u/s 107, etc., against any person to show cause, he shall make an order in writing setting forth the substance of the information in writing, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties. So from, the section itself it is clear that he shall pass order in which substance of information should be incorporated. Annexure II is the notice issued in pursuance of the order passed in that proceeding. The applicant has not enclosed that order. There is no provision that the notice issued to the applicant should contain substance of information as required u/s 111, Code of Criminal Procedure. So, the learned

Counsel is totally misconceived of the fact that the learned Magistrate has not applied his mind. Section 111, Code of Criminal Procedure does not contemplate that the notice which was issued to the applicant should contain reasons for his satisfaction.

4. The learned Counsel has then submitted that the applicants have been asked to furnish bond which the learned Counsel cannot do under the Act but in the notice, it has been specifically stated that he is to show cause why the bond of such and such amount is required to be executed by them. There is no order that the applicants are to execute bond straightway. They are simply required to show cause and if after considering nature of the cause shown and also considering attending circumstances, the Magistrate so feels, he can ask for execution of the bond if it is necessary to prevent the breach of peace.

5. So, I do not find any illegality in the notice issued on 12.4.1996 and the application is, therefore, dismissed.