

(1983) 11 KAR CK 0003
In the Karnataka High Court
Case No : Cr. R.P. 300/1982

Shivalingawwa and Others

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 25-11-1983

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 101

Citation : (1984) 1 KarLJ 321

Hon'ble Judges : G. N. Sabhahit, J

Judgement

Sabhahit, J.-This revision petition is directed against the show cause notice dated 2-3-1982 issued by the Executive Magistrate Haliyal at No. HAG IASR 16 of 1981-82, directing the present petitioners to show cause why they should not execute a bond for one year with one surety furnishing a security of Rs. 2,000 for good behaviour.

2. The preamble to the show cause notice states that S. 107 Cr. P.C. proceedings are registered against the present petitioners as they are likely to commit imminently breach of peace.

3. The learned counsel appearing for the revision-petitioners strenuously urged before me that the show cause notice is not for keeping peace as required under S. 107 of the Code of Criminal Procedure but for keeping good behaviour, which is not contemplated under S. 107 of the Code of Criminal Procedure. Hence, he submitted that the order issued by the Taluka Magistrate is illegal and has to be set aside.

4. On going through the show cause notice, it becomes clear that proceedings were instituted against the petitioners under S. 107 of the Code of Criminal Procedure for keeping peace and not for being of good behaviour as is contemplated in Ss. 108, 109, or 110 of the Code of Criminal Procedure.

5. In fact, proviso (a) Sub-S. (3) to S. 116 of the Code of Criminal Procedure clearly States;

"No person against whom proceedings are not being taken under S. 108, S. 109, or S. 110 shall be directed to execute a bond for maintaining good behaviour".

6. That being so, it is obvious that the show cause notice issued by the Taluka Magistrate in question is manifestly illegal and has to be set aside. Accordingly the revision petition is allowed and the impugned show cause notice is hereby set aside.