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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO.3744 OF 2015**

Subhash Dagadu Shinde	..Petitioner.
V/s.	
The State of Maharashtra and anr.	..Respondents

WITH
WRIT PETITION NO.3745 OF 2015

Sambhaji Dagadu Shinde	..Petitioner.
V/s.	
The State of Maharashtra and anr.	..Respondents

WITH
WRIT PETITION NO.3746 OF 2015

Santosh Dagadu Shinde	..Petitioner.
V/s.	
The State of Maharashtra and anr.	..Respondents

Mr. P.P. Runwal for the petitioners.

Mr. K.V. Saste, APP for respondent-State in WP No. 3745 of 2015..

Mrs. U.V. Kejriwal, APP in WP No. 3744 of 2015 and WP No. 3746 of 2015.

CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : FEBRUARY 17, 2016

P.C. :-

1. Heard the learned counsel for the petitioners and the learned APPs for the State.

2. By these petitions, the petitioners are challenging the proceedings of the Chapter Cases initiated by the Executive Magistrate

Paud, Taluka Mulshi, District Pune. The document at Exh. "D" in all these petitions is a show cause notice under section 111 of the Code of Criminal Procedure. The chapter proceedings were commenced by the said notice which was issued on 19th August, 2015.

3. In the impugned notices, the Executive Magistrate has mentioned that he has received the report dated 17th August, 2015 from the Police Sub Inspector, Paud wherein it is mentioned that the petitioner indulges into an act of abusing and threatening the witnesses and create terror which may result into breach of peace. Therefore, he calls upon the petitioners to explain as to why bond in the sum of Rs.5,000/- for the period of six months should not be obtained from them. The show cause notices issued to the petitioners were not accompanied with any order as necessarily to be passed before issuing such notices. The Executive Magistrate appears to have been completely misdirected himself as to the ambit, meaning and the purpose of section 111 of the Code of Criminal Procedure. When the Magistrate acts under section 107 and thinks it necessary to issue show cause notice, then he has to give an order in writing under section 111 of the Code of Criminal Procedure recording therein his satisfaction to initiate such proceeding. Such an order must disclose the substance of the information received, the amount of bond to be executed, the term of that bond and the number, character and class of sureties, if any required to be furnished. Thus the requirement of section 111 of the

Code of Criminal Procedure, is making of an order and not issuance of show cause notice that too mechanically. Therefore, on the face of the record, the impugned notices are bad in law. In the absence of the order as contemplated under section 111 of the Code being passed by the learned Executive Magistrate, the entire proceedings initiated against the petitioners are liable to be quashed and set aside. In this context, the learned counsel for the petitioners has rightly placed reliance on the judgment of Division Bench of this Court (Coram: S.C. Dharmadhikari & G.S. Patel, JJ). in **Criminal Writ Petition No.1206 of 2013 in the case of Edwin Alfred Moraes Versus State of Maharashtra and another decided on 22nd October, 2013.**

4. As per sub section (6) of section 116 of the Code of Criminal Procedure, if the inquiry initiated under the Chapter Proceedings is not completed within a period of six months, on the expiry of the period of six months, it stands terminated unless for the special reasons to be recorded in writing, the Magistrate otherwise directs. We are told that though the period of six months due to expire on 19th February, 2016, the inquiry has not been proceeded further. Except issuance of show cause notice, no further inquiry has been conducted in the matter. There appears to be no special reasons to continue with the inquiry beyond the period of six months. In view of this also, chapter proceedings are liable to be set aside.

5. In the above circumstances, we quash the proceedings of the said chapter cases and allow all the above petitions in terms of prayer clauses (b) and (c).

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)