

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 468 OF 2017

Kanchan Adhar Maiti .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

WITH
CRIMINAL WRIT PETITION NO. 469 OF 2017

Rohit Narayan Vishwas .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

WITH
CRIMINAL WRIT PETITION NO. 470 OF 2017

Ramesh Basva Pujari .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

WITH
CRIMINAL WRIT PETITION NO. 471 OF 2017

Sajan Haque .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

WITH
CRIMINAL WRIT PETITION NO. 472 OF 2017

Abhishek Chandrahas Shetty .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

WITH
CRIMINAL WRIT PETITION NO. 473 OF 2017

Vijay Phulo Mukhiya .. Petitioner

v/s.

The Special Executive Magistrate & Ors. ..Respondents

Mr. D.A. Nalawade i/b. Ravindra Lokhande for the Petitioners in all petitions.

Mrs.A.S.Pail, APP for the Respondent-State in all petitions.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : 7th APRIL, 2017.**

P.C. :

1. Heard the learned Counsel for the Petitioners and the learned APP for the State. The above petitions are filed challenging the show cause notice dated 31st December, 2016 issued under Section 111 of the Code of Criminal Procedure arising out of Court Proceeding No. 338 of 2016 under Section 107 of the Code of Criminal Procedure.

2. By the impugned notice the petitioners were called upon to show cause as to why they should not be ordered to execute a bond for an amount of Rs.5000/- for keeping peace for a period of one year.

3. The said notice has been issued only on the basis of registration of a FIR bearing C.R.No. 411 of 2016 with the Mahim Police Station, against the Petitioners for the offences punishable under Section 141, 143, 147, 149, 323, 504, 506 of the Indian Penal Code.

4. We have perused the First Information Report. The First Information Report reveals that the Petitioner in Writ Petition No. 472 of 2017 is the owner, whereas the Petitioners in other writ petitions are the staff members of Hotel Ganga Vihar. On 10th November, 2016 at about 10.30 p.m. four customers, including the complainant-first informant went to Hotel Ganga Vihar. After having meals, they went to the counter to make the payment. There was an altercation between the owner of the hotel and the customers, as he had refused to accept the notes of denomination of Rs.500/- in view

of demonetization of the said notes from 9th November, 2017. The FIR further reveals that the said altercation resulted in assault between both the parties.

5. The proceedings under Section 107 Cr.P.C. are invoked on the basis of the sole incident that occurred on 10th November, 2016. The said incident was basically a quarrel between two groups on non-acceptance of Rs.500/- notes. Suffice it to say that the proceedings under Section 107 Cr.P.C. is only a preventive measure aimed at preserving public peace and tranquility. In the instant case, there was no material to indicate that the petitioners were likely to commit a breach of peace or disturb the public tranquility or do any wrongful act which was likely to disturb public peace and tranquility. On the contrary, the allegations in the FIR reveal that the incident in question had occurred in a hotel over the issue of non-acceptance of old notes of Rs.500/- denomination.

6. In our considered view, the provisions of Section 107 Cr.P.C. could not have been invoked on the basis this sole incident of trivial

nature. The Respondent No.1, in our considered view, has exceeded jurisdiction. The impugned notices, therefore, cannot sustain. The same are quashed and set aside. The petitions are accordingly allowed in terms of prayer clause (a).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)