

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.15641 OF 2007

ORDER:

The petitioner challenges registering Crime No.273 of 2007 dated 11.07.2007 under Section 107 of Criminal Procedure Code (Cr.P.C) as illegal, arbitrary and unconstitutional.

On 24.07.2007, the following interim order was passed:

"It is the case of the petitioner that the respondent registered a case in Cr.No.273/2007 dated 11.07.2007 and submitted the F.I.R. to all the concerned officers. It is stated that the provisions of Sec.107 Cr.P.C. are only the provisions requiring to furnish security for keeping peace before the Executive Magistrate from any person or authority about the likelihood of breaching peace after following the due procedure he can direct furnishing of security. It is stated that Sec.107 Cr.P.C. itself is not a penal provision and therefore, registering the crime under section 154 Cr.P.C. does not arise.

It is stated that insofar as cognizable offence is concerned, the police are empowered to register the case and investigate into the same. But insofar as non-cognisable offences are concerned, without the permission of the court concerned, the F.I.R. cannot be registered.

The contention of the learned counsel for the petitioner prima facie goes to show that unless the allegations are made about the commission of the cognizable offence, the question of registering the F.I.R. does not arise. But, however, the said F.I.R. registered by the respondent can be treated as information furnished to the Executive Magistrate and it is open for the Executive Magistrate to initiate action under Section 107 Cr.P.C. by following due procedure of law.

Accordingly, the respondent is directed not to treat the Crime No.273/07 as F.I.R. issued under Section 154 Cr.P.C. but, it shall be treated as information furnished under Section 107 Cr.P.C."

The Assistant Government Pleader after perusing the allegations submits that the currency of any event under Section 107 of Cr.P.C. is for a period of one year and the writ petition can be disposed of by making interim order as final order.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 27.02.2017
Sp

S.V. BHATT, J

