

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1073 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

1. AJIT KUMAR, son of Vakil Yadav, resident of village- Pathak Milki, Dulhin Bazar, P.S. Dulhin Bazar, Patna, Bihar-801102.

2. Sunil Kumar son of Jamadar Yadav both are resident of village- Pathak Milki, Dulhin Bazar, P.S.- Dulhin Bazar, Patna-Bihar-801102.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Deptt. Of Home, Patna, Bihar

2. The Director, General of Police Bihar, Patna.

3. The Senior Superintendent of Police, Patna

4. The Sub-Divisional Police Officer, Paliganj, Patna

5. The Sub-Divisional Magistrate, Paliganj, Patna

6. The Officer-in-Charge, Dulhin Bazar Police Station Dulhin Bazar, Paliganj, Patna.

... .. Respondents

Appearance :

For the Petitioners : Mr.Abhishek Kumar, Advocate

For the Respondent-State: Mr.M. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-07-2019

In the instant application preferred under Articles 226 and 227 of the Constitution of India, the petitioners have prayed for quashing the proceeding initiated against them under Section 107 of the Code of Criminal Procedure (for short 'CrPC') vide



Dulhin Bazar P. S. Non-FIR No. 10 of 2019 by the learned Sub-Divisional Magistrate, Paliganj.

2. The facts of the case, in brief, are that that the Officer-in-charge of Dulhin Bazar Police Station had submitted report vide Dulhin Bazar P. S. Non-FIR No. 10/19 dated 01.03.2019 before the Sub-Divisional Magistrate, Paliganj alleging inter alia that the petitioners and five others are likely to commit breach of peace and disturb the public tranquility during the ensuing Lok Sabha Election, 2019. On receipt of the report a proceeding was initiated against the petitioners and others under Section 107 of the CrPC. Vide order dated 12.03.2019, the learned Sub-Divisional Magistrate passed orders under Section 112 of the CrPC requiring them to show cause why they should not be ordered to execute bonds in the sum of Rs.1 lakh with two sureties in the like amount to maintain peace for a period of one year. Pursuant to the said show-cause issued by the learned Sub-Divisional Magistrate, the petitioners appeared and instead of filing any show cause they volunteered to furnish bond and sureties, as desired by the court whereafter the learned Sub-Divisional Magistrate passed order under Section 117(3) of the CrPC directing the petitioners to execute bond and sureties pursuant to which they furnished bond and sureties.



3. Learned counsel for the petitioners submitted that the petitioners are law abiding citizens and the proceeding was initiated against them with ulterior motive. He contended that since there is no apprehension of breach of peace or public tranquility at their end, the bonds taken from them are grossly illegal.

4. On the other hand, learned counsel appearing for the State submitted that pursuant to receipt of an application from the Officer-in-Charge, Dulhin Bazar Police Station, a proceeding under Section 107 of the CrPC was initiated against the petitioners. They were asked by the learned Sub-Divisional Magistrate to file their show-cause. The petitioners appeared and did not contest the matter. They furnished bond and sureties voluntarily. Once they did not choose to contest the matter and furnish bond, the petitioners cannot assail proceeding initiated against them under Section 107 of the CrPC.

5. Having heard learned counsel for the parties, I find substance in the submission made by the learned counsel for the State that initiation of a proceeding under Section 107 of the CrPC or issuance of show cause to the petitioners was not erroneous or without jurisdiction. The petitioners chose not to contest the matter and furnished bond and sureties pursuant to the



show-cause notice issued to them. In absence of any contest, I see no merit in this application whereby the petitioners have challenged the proceeding under Section 107 of the CrPC.

6. The application lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2019
Transmission Date	19.07.2019

