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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1492/2020**

PRASANNA

..... Petitioner

Through: Mr Aditya Aggarwal, Advocate.

versus

STATE

..... Respondent

Through: Mr Rajesh Mahajan, ASC for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.09.2020

[Hearing held through video conferencing]

CRL. M.A. 12970/2020

1. Allowed, subject to all just exceptions.

W.P.(CRL) 1492/2020 & CRL. M.A. 12969/2020

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 09.09.2020 issued by the learned Special Executive Magistrate (West) under Section 107/111 of the Code of Criminal Procedure, 1973 (Cr.PC) in Kalandra No.89AB/2020 registered under Section 107/150 of the Cr.PC.

3. The petitioner claims to be a wife of Late Shri O. P. Bagga and is a resident of J-12/66, First Floor, Rajouri Garden, Delhi. The said premises belonged to Late Shri O. P. Bagga. The petitioner claims to have a right in

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the same. Apparently, there are disputes between the son and daughter of Shri O. P. Bagga on one part and the petitioner on the other. It appears they also dispute that the petitioner was married to their father (Late Shri O. P. Bagga). It is contended that they are also residing in the same premises.

4. Information regarding disputes between the son and daughter of late Shri O.P Bagga on one part and the petitioner on the other part was forwarded to the learned Magistrate and in view of the same, the learned MM had issued the impugned notice calling upon the petitioner to show cause why they should not be bound down to execute a Personal Bond. This court had informed that a similar notice was also sent to the son and daughter of late Shri O.P.Bagga.

5. Mr Aggarwal, submits that impugned notice was illegal since it mentions both section 107 and section 111 of the Cr.PC. He states that the same is not permissible. He relies upon the judgment of the Coordinate Bench of this Court in *Satya Devi Others v. State: Crl.M.C. 3406/2007* decided on 31.07.200, in support of his contention.

6. The said contention is unmerited. It is relevant to note that the impugned notice has been issued under section “107/111 of the Cr.PC”. The impugned notice is in the nature of the show cause notice and it is only after the petitioner has been heard that any order under section 111 would be passed. This Court in *Satya Devi (supra)* had also clearly explained as under:-

“8. Therefore, this section needs two steps to be followed; firstly the Magistrate must receive an information on which he forms an opinion and secondly on the basis of which opinion he is required to issue a notice.

9. Section 111 of the code comes into play or can be invoked only if after receipt of the notice issued under Section 107 of code, the person concerned responds or fails to respond. An order can be made by the Magistrate asking such person to furnish a bonds. An order under section 111 of the code can be issued by a Magistrate only if after acting under Section 107, 108, 109 or Section 110 he feels it necessary to require any person to show cause under such section. Magistrate is required to make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of class of sureties if any required.”

7. In view of the above, this Court finds no infirmity with the issuance of the impugned notice. It clearly records that the detailed report had been received, which has led the learned MM to believe that the petitioner is likely to do a wrongful act that may result in the breach of peace. In the aforesaid context, the petitioner has been called upon to show cause why the petitioner should not be bound down to execute the Personal Bond in the sum of ₹10,000/-. Undisputedly, the order directing the petitioner to furnish a Personal Bond can be passed only after the petitioner has been afforded an opportunity to show cause in this regard.

8. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

SEPTEMBER 21, 2020
MK