

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1268 OF 2022**

Avinash H. Panchal

..Petitioner

vs.

The State of Maharashtra
(At the instance of A.C.P.
Chemubur Division, Mumbai)

..Respondent

None present for the Petitioner.

Ms M.M. Deshmukh, APP for the Respondent – State.

Mr. Jagdeo Kolapad, ACP Chembur Division Present.

CORAM : PRASANNA B. VARALE &
N.R.BORKAR, JJ.

DATE : 26.09.2022.

P.C.

1] This petition takes an exception to the show cause notice issued by the learned Special Executive Magistrate and Assistant Commissioner of Police, Chembur Division, Mumbai (for short “S.E.M.”) dated 1 March 2022 under Section 111 of Code of Criminal Procedure. By the impugned show cause notice, the Petitioner is called upon to show cause as to why he should not be ordered to execute bond for keeping the peace for a period of one year.

2] None present for the Petitioner. With the assistance of learned APP, we have perused the impugned show cause notice. Perusal of the impugned show cause notice reveals that the learned S.E.M. has issued the impugned show cause notice in view of registration of Crime No.24 of 2022 with Gowandi Police Station at the instance of one Ramesh J. Parmar for the offence punishable under Sections 448,454, 457,380,

427, 504 and 506 read with 34 of the Indian Penal Code, wherein the petitioner is one of the accused.

3] The main allegations in the aforesaid crime are against one Ghisulal Bhati. It appears that said Ghisulal Bhati had let out certain portion of godown to the complainant – Ramesh Parmar. It is alleged that some time between 5 February 2022 to 7 February 2022, said Ghisulal Bhati ransacked the office of the complainant, caused damage to the electronic and other articles and demolished the partition wall dividing their premises. The allegations against the present petitioner are that when the daughter of said Ramesh Parmar, namely, Sakshi Parmar came at the place of incident on 7 February 2022 at about 10.00 a.m., the present petitioner went there and abused her in filthy language and threatened her.

4] According to the petitioner, the learned S.E.M. has mechanically issued the impugned show cause notice to him without considering the fact that the main dispute is between the complainant Ramesh Pawar and Ghisulal Bhati and he has nothing to do with the said dispute. It is stated that the learned S.E.M. thus erred in issuing the impugned show cause notice under Section 107 of the Cr.P.C. in absence of any material to show that the petitioner would commit breach of peace or disturb the public tranquility. It is thus, stated that the impugned show cause notice be quashed.

5] The learned APP, on instructions, submits that the learned S.E.M. has not yet passed the order pursuant to the impugned show cause

notice. The main dispute appears to be between the complainant Ramesh Parmar and Ghisulal Bhati. Practically half of the bond period is over. It is not shown that after registration of Crime No.24 of 2022, the petitioner has indulged in any act by which breach of peace was caused or public tranquility was disturbed. This Court in *Perswami Kandswami Devendra and anr. v. Sr. Inspector of Police and ors.*¹ has held :

“5. Section 107 if read plainly show that its object is to protect the public tranquility and to prevent possibility of any disturbance to public peace. Therefore, there should be material before the Special Executive Magistrate to come to a conclusion that the person who is to be asked to furnish the bond is doing such activities which are reasonably dangerous to public peace and public tranquility and that too directly. The material should show that the is having the associates and doing the exercise of muscle power or giving threats or engaging himself in anti-social activities which would result in out breaking of some incident which would disturb the public tranquility and would cause the breach of public peace. Petty quarrels between individuals are very common in society. They are not long lasting and shortly forgotten after the heat of passion subsides and anger gets cooled down. Of course, the incidents cannot be overruled in which such quarrels would be having long lasting effect and would lead to deep rooted enmity between the concerned persons. But there has to be material to that effect. The cases of show of muscle power and show of the strength cannot be excluded because in those cases also there is possibility of breach of public peace and disturbance to public tranquility. There should be material on record to show that way.

6. Domestic quarrels, petty quarrels between neighbouring persons which do not have long life are not the subject matters of the actions to be taken in view of Section 107 of the Code. The energy and time of public servant concerned should not be wasted in such trifling matters or for satisfying the personal vendetta or for the purpose of giving lessons to

¹ 2003 ALL MR (Cri.) 1732

each other. This Court is supported by the view taken by the Single Judge Bench of this Court in two cases i.e. [Smt. Christalin Costa and Ors. v. State of Goa and Ors.](#), reported in 1993 (1) Bombay Law Reporter 688 and [Madhu Deoraj Shetty v. State of Maharashtra](#) reported in 1989 Cri. L.J. 1255.”

6] Considering these facts and circumstances, the impugned show cause notice dated 1 March 2022 issued by learned S.E.M. is quashed and set aside.

7] Writ Petition is allowed and disposed of in the above terms.

[N.R.BORKAR, J]

[PRASANNA B. VARALE, J.]