

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.674 OF 2022

Vasant Maruti Palkar

Applicant

versus

The State of Maharashtra and others

Respondents

Mr.R.Sathyanarayanan with Mr.Pratik Surti, Advocate for applicant.
Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th September 2022

PC :

1. The applicant is aggrieved by the proceedings initiated u/s.107 of Code of Criminal Procedure by respondent no.3 vide notice dated 4th April 2022 calling upon applicant to show cause as to why he should not execute bond u/s.107 of Cr.PC. The notice refers to non-cognizable complaint registered against applicant. The applicant had challenged the proceedings before Sessions Court by preferring revision application, which has been rejected by order dated 5th July 2022.

2. The show cause notice refers to complaint lodged by opponent against applicant. The applicant and opponent are residents of same building. It is alleged that applicant picks up quarrel with opponent and the witness. Non-cognizable complaint is registered against applicant under Sections 504, 506 of Indian Penal Code. The applicant has committed breach of public peace hence it is proposed to initiate preventive action against the applicant.

3. Learned advocate for applicant submit that proceedings are not maintainable in law. The order of Sessions Court is contrary to law. The opponent who lodged N.C complaint is on inimical terms with

applicant. The object of Section 107 of Cr.PC is preventive and not punitive. The quarrel, if any, between two individuals cannot amount to breach of public peace.

4. Learned APP submitted that four N.C complaints are registered against applicant. He had appeared before Investigating Officer and tendered his reply. The notice was issued considering material on record. The Sessions Court has referred to the fact that the applicant has participated in inquiry. Notice was issued after recording reasons. Hence at this stage proceedings may not be quashed.

5. For initiating action under Section 107 of Cr.PC, there has to be material that the person is likely to cause breach of public peace. The show cause notice refers to N.C complaint lodged by opponent regarding quarrel between them. The notice mentions that applicant has committed breach of public peace and likely to further commit such act. Taking into consideration purport of Section 107 of Cr.PC and material on record in the form of N.C complaint, I do not find that this is a case where the petitioner should be asked to execute bond u/s.107 of Cr.PC.

ORDER

- (i) Criminal Application is allowed and disposed off;
- (ii) The show cause notice dated 4th April 2022 issued by Special Executive Magistrate, Paydhonie Division, Mumbai and order dated 5th July 2022 passed by Sessions Court in Criminal Revision Application No.409 of 2022 are quashed and set aside.

(PRAKASH D. NAIK, J.)