

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1223 OF 2023

Tapan Anant Thatte

... Petitioner

V/s.

The State of Maharashtra

... Respondent

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Mr. Satyavrat Joshi i/by Mr. Nitesh Jaywant Mohite for
the petitioner.

Mr. M.G. Patil, APP for respondent/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 5, 2023

PC.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The challenge in this writ petition is to the show-cause notice issued by the learned Executive Magistrate, Sinhagad Road, Pune in Chapter Case No.1059 of 2023.
- 3.** The reason for invoking power under section 111 of the Criminal Procedure Code, 1973 was filing of First Information Report No.14 of 2023 under sections 376(ii), 406, 420, 504, 506 of IPC. It is undisputed that the petitioner has been released on anticipatory bail.
- 4.** On 24th March 2023, the Executive Magistrate issued a show-cause notice under section 111 of the Code. The reason mentioned in the show-cause notice is registration of cognizable offence under

section 376, 406, 420, 504, and 506 of IPC. The contents of the show-cause notice indicate that the petitioner allegedly had sexual intercourse with the complainant on false promise of marriage and cheated her with non-payment of Rs.5 lakh.

5. To invoke power under section 111 of the Code, it is necessary that the nature of acts and offence alleged against the noticee must be such that there was possibility of breach of peace or disturbance of public tranquility. Considering the nature of allegations made against the petitioner, in my opinion, the issue involved is no longer *res integra* in view of judgment of a learned Single Judge of this Court in **Sana Nadim Pavwskar v. State of Maharashtra** reported in 2003 (3) Mah.L.J. 235.

6. Therefore, in my opinion, even if the contents of notice are accepted, the action under section 111 read with section 107 of the Code could not have been initiated.

7. Rule is made absolute in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)