

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(CRIMINAL REVISIONAL JURISDICTION)**

PRESENT:

THE HON'BLE JUSTICE AJOY KUMAR MUKHERJEE

CRR 149 of 2023

**Pasang Lama@ Passang lama
Vs.
The State of West Bengal**

For the petitioner : Ms. Sristi Sarkar

For the state . Mr. Aditi Shankar Chakraborty
Mr. Ujjal Luksom

Judgment on : 23.08.2024

Ajoy Kumar Mukherjee, J.

1. Being dissatisfied with the order passed under section 107 of the Code of Criminal Procedure by learned Executive Magistrate Alipurduar dated on 15.07.2022, the present petitioner preferred a Revisional Application before learned Additional Session Judge, Alipurduar vide Criminal Revision No. 49 of 2022. Learned Court below by the order dated 02.06.2023 dismissed the Revisional Application of the petitioner and affirmed the order dated 15.07.2022 passed by the learned Executive Magistrate Alipurduar.

2. Be it mentioned that allegations leveled against the petitioner in the complain is that on 25.06.2022, the petitioner was giving threat to one

Abhimunya Chetri, which was witnessed by the informer, who is an officer of the Kalchini Police Station. On the basis of said complain, a case under section 107 of the Code of Criminal Procedure was initiated against the petitioner vide M.R. Case No. 1097 of 2022. Executive Magistrate, Alipurduar by the aforesaid order dated 15.07.2022 directed the petitioner to execute a bond amounting to Rs. 1000/- for keeping peace for next one year i.e. upto 15th July, 2023.

3. Being aggrieved by that order the petitioner contended that due to political identity of the petitioner and due to the ideological differences between the petitioner and other leaders of the ruling party, he has been entangled in several false criminal cases with an intention to harass him. He further submits that the officer of Kalchini Police Station without making any enquiry and without interrogating the local residents submitted the report before the learned Executive Magistrate, Alipurduar. In fact on the alleged date of incident, the petitioner was not present in the spot of alleged incident and he was in a blood donation camp on that date. He further submits that the court below without going to the merit of the case, rejected the Revisional Application.

4. Learned counsel appearing on behalf of the State submits that the orders impugned does not suffer from any infirmity or illegality and as such, said orders do not call for interference by this court.

5. I have considered submissions made by the parties. It transpires from the records that the Executive Magistrate while disposing the said Application, directed present petitioner to execute bond for keeping peace for

next one year i.e. upto 14th July, 2022, which period expired one year back from this date.

6. There is no quarrel with the proposition of law that proceeding under section 107 of Cr.P.C. can continue despite the fact that the period for which the bond was required to be executed, expired. However, section 107 of the code speaks that “any person is likely to commit a breach of peace or disturbed the public tranquillity or to do any wrongful act that may probably occasioned a breach of peace or public tranquillity.....”. It clearly indicates that the legislature has worded said preventive provision in the present tense and they have not used the term “were likely” nor the section itself is punitive in nature.

7. In other words the breach of peace alleged must be imminent to justify action under the said section. There is no allegation against the petitioner herein that even after expiry of said period i.e. 14.07.2023, the petitioner herein has acted anything which is likely to cause breach of peace or disturb the public tranquillity and as such without going to the merit of the case, it can be said that the orders impugned have become infructuous with the passage of time.

8. In such view of the matter the **CRR 149 of 2023** is dismissed being infructuous. It is made clear that I have not gone into the merits of the case. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(AJAY KUMAR MUKHERJEE, J.)