

Rajendra Vs. State of U.P.

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Court : Allahabad

Decided On : Apr-17-1992

Reported in : 1993CriLJ3058

Judge : J.K. Mathur, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 106, 107, 116, 116(3) and 482

Appeal No. : Criminal Misc. Case No. 345 of 1992

Appellant : Rajendra

Respondent : State of U.P.

Advocate for Def. : Govt. Adv.

Advocate for Pet/Ap. : R.N. Rastogi, Adv.

Disposition : Petition allowed

Judgement :

ORDER

J.K. Mathur, J.

1. By this application under Section 482, Cr. P.C. the applicant seeks quashing of proceedings initiated against him under Section 107/116, Cr.P.C.

2. It is not disputed that proceedings under Section 107/106, Cr. P.C. are already pending against the present applicant on the basis of a report contained in annexure 1. During the pendency of these proceedings another set of proceedings are sought to be initiated against the applicant under the same provisions of law.

3. I have heard learned counsel for the parties.

4. The purpose of proceedings under Section 107, Cr. P.C. is to require a person to keep peace during the period as may be fixed by the Magistrate extending to one year. In case of imminent breach of peace apprehended, the prosecution can always move under Section 116(3), Cr.P.C. during the enquiry. Another proceedings under Section 107, Cr. P.C. even if it succeeds will again result in same order as may be passed in the earlier proceeding. The order in the earlier proceedings will be effective against any breach of peace even if it is not connected with the incident in respect of which the proceedings are initiated.

5. In these circumstances, successive proceedings during the pendency of earlier ones, under Section 107/116, Cr. P.C. would only amount to harassment without any additional restriction imposable on the applicant. The process of law cannot be used merely to harass a person.

6. The application is, therefore, allowed. Only the proceedings under Section 107/116, Cr. P.C. as were initiated earlier against the petitioner are, therefore, to be continued. The subsequent set of proceedings are hereby quashed. However, it will be open to the Magistrate to proceed against the applicant after inclusion of the present proceedings, if it be necessary.