

Sudarsan Singh Vs. Govind

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Court : Allahabad

Decided On : Jul-27-1971

Reported in : 1971CriLJ1822

Judge : H.C.P. Tripathi, J.

Appellant : Sudarsan Singh

Respondent : Govind

Judgement :

ORDER

H.C.P. Tripathi, J.

1. On the 17th of July 1970, Sub Divisional Magistrate Bidhuna .at Etawah issued notice to the opposite parties who are applicants here to show cause why they should not be ordered to execute a personal bond of Rs. 1000/-with two reliable sureties each in the like amount for keepirfg the peace for a period of one year. Opposite parties; came up in revision before the Additional Sessions Judge Etawah who has-, made a reference to this Court recommending that the aforesaid order of the Magistrate be set aside. The Sessions Judge also stayed the proceedings meanwhile. .

2. I have perused the order of the Sessions Judge and the explanation submitted by the Magistrate. I do not agree with the learned Sessions Judge that in the

absence of a police report the Magistrate had no jurisdiction to initiate proceedings against some of the opposite parties. I also do not agree with him that as the dispute between the parties related to immovable property, the initiation of proceedings Under Section 107 Criminal P.C. was illegal.

3. In terms Section 107 of the Code invests jurisdiction in the Magistrate to initiate proceedings under. Section 107 against any person on receiving information from any source if, in his opinion there was sufficient ground for proceeding 'against that person. It is not necessary that such information must come from police only. In the instant case there was complaint against the opposite parties before the Magistrate and he had full jurisdiction to initiate proceedings Under Section 107 on the basis of that complaint if he was satisfied (that there was sufficient ground for proceeding against the opposite parties.

4. It is true that if the dispute between the parties relates to a piece of land in respect of its possession it is desirable to initiate proceedings Under Section 145 Criminal P.C. but the jurisdiction of the Magistrate to bind down the parties Under Section 107 Criminal P. C: for keeping peace is not barred. Therefore, both these reasons advanced by the learned Sessions Judge for quashing the proceedings 'do not possess any substance. The impugned notice Under Section 107/117 Criminal P.C. as has been held by the Sessions Judge, sets forth the substance of the information received by the Magistrate on the basis of which he had issued the notice. Thus the notice ~ cannot be quashed for the reasons mentioned in the referring order of the Sessions Judge.

5. However, there is another aspect of the question. By the impugned notice the Magistrate had required the opposite parties to show cause why they be not bound down for a period of one year- The period has already expired. That being so, the notice has exhausted itself- In the circumstances, I quash the impugned order of the Magistrate but for different reasons.

6. In case the apprehension of breach of peace from the, side of opposite parties-applicants still persists it shall be open to the Magistrate to initiate a fresh proceeding against them Under Section 107. Criminal P.C. and to decide it in accordance with law.

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