

Court No. - 54

Case :- APPLICATION U/S 482 No. - 5671 of 2012

Petitioner :- Chandra Bhushan

Respondent :- State Of U.P. And Others

Petitioner Counsel :- Sheo Ram Singh, Janardan Yadav

Respondent Counsel :- Govt. Advocate

Hon'ble Bala Krishna Narayana, J.

Heard learned counsel for the applicant and learned A. G. A. for the State.

The facts of the case in brief are that an order purporting to be passed under Section 111 Cr. P. C. by the S. D. M., Sadar, District Azamgarh asking the applicant to show cause why he may not be required to furnish a personal bond of heavy amount and sureties in the like amount for maintaining peace and good conduct for a period of six months. Pursuant to this order proceedings under Section-110 Cr. P. C. were initiated against the applicant.

The applicant has now approached this Court praying that the order passed by the S. D. M., Sadar, District Azamgarh as well as the entire proceedings be quashed.

Learned counsel for the applicant has invited my attention to the order passed by the Magistrate under Section 111 Cr. P. C. It has been submitted by learned counsel for the applicant that the above order is bad in law and as such the Magistrate could not assume jurisdiction to proceed under Section 110 Cr. P. C. He further submitted that the order is on a cyclostyled proforma with certain blanks which have been filled in with pen and ink by someone and simply initiated by the S. D. M., Sadar, District Azamgarh.

It is further submitted that the S. D. M. has no jurisdiction or authority to proceed on the basis of this void notice and he has placed reliance upon the case of ***Ranjeet Kumar and others Versus State of U. P. and others reported in 2002 (45) ACC 627.***

Considering the aforesaid facts and submissions it is evident that notice under challenge on the ground that the notice suffers from illegality, vagueness of the substance of information received as set forth is wholly incomplete vague and ambiguous. Notice is wholly defective and invalid. The S. D. M. has no jurisdiction to proceed on the basis of this void notice and proceedings pending

against the petitioners are a nullity without jurisdiction and as the applicant has challenged the validity of the impugned notice on the ground that it does not fulfil the requirements of mandatory provisions of Section 111 Cr. P. C. and therefore, the notice in question is null and void and the proceedings before the S. D. M. are a nullity. It is well settled that the objective of setting forth in the order, the substance of information received by the S. D. M. is to inform the person asked to show cause what allegations he has to answer. If the substance of the information set forth in the notice is vague and ambiguous, the very object of Section 110 Cr. P. C. is defeated.

For the aforesaid reasons, the impugned order dated 9.1.2012 passed by the S. D. M., Sadar, District Azamgarh in Case No.14 is liable to be quashed and is hereby quashed.

The application is allowed.

Order Date :- 14.2.2012

Bhaskar