

Supreme Court of India

Govinder Singh Verma And Anr. vs Mrs. Bachubhai T. Pestonji And ... on 21 October, 1971

Equivalent citations: AIR 1972 SC 528, 1972 CriLJ 316, (1972) 4 SCC 643, 1972 (4) UJ 117 SC

Author: A Ray

Bench: A Ray, D Palekar

JUDGMENT A.N. Ray, J.

1. This is an appeal by special leave from the judgment dated 10 June, 1968 of the High Court at Bombay refusing to set aside the order dated 11 December, 1967 passed by the Sub-Divisional Magistrate, Poona.

2. The order of the Sub-Divisional Magistrate came to be passed under the following circumstances. On 3 March, 1967 the respondent Mrs. Pestonji filed an application and lodged a complaint in the court of the Sub-Divisional Magistrate, Poona under Section 107 of the CrPC alleging that the appellants had threatened to kill the son of the respondent Mrs. Pestonji and threatened to endanger the safety of the members of the respondent's family. On 10 May, 1967 a notice was issued by the Magistrate requiring the appellants to appear in the court of the Sub-Divisional Magistrate, Poona and to show cause why they should not be asked to furnish a surety and a personal bond for a sum of Rs. 1000/-each for a period of one year for ensuring non-committal of any action the part of the appellants in future that might result in a breach of the peace. On 10 May, 1967 the appellant Govinder Singh appeared before the Magistrate and his statement was recorded. The appellant Govinder Singh said that he was not ready to give in writing any surety or any bond. The appellant Narinder Singh was also examined by the Magistrate on 10 May, 1967. He also said that he was not willing to give in writing any surety or any bond. The case was adjourned from time to time until 3-8-1967. On that date, the Sub-Inspector of Ghorpadi Police-station was examined. On 11 November, 1967 the appellant Narinder Singh was not present in court. The case was adjourned till 23 November, 1967. On that date the appellants attended the court.

3. On 11 November, 1967 the Sub-Divisional Magistrate, Poona passed an order as follows :

This is a case under Section 107 Cr. PC against two opponents Govinder Singh Verma, Narinder Singh Virdi and D.D Zigade. There is sufficient evidence on record to show that there is a quarrel, threat, given to the applicant Bachubhai T. Pestonji. The statement of witness No. 1 Jarauddin Hamifuddin Sheikh Police Sub-Inspector recorded on 3-8-67 clearly shows that there is likelihood of a breach of peace and in order to prevent, quarrel, thereafter and a cognizable offence being committed by the opponents, I order that the opponents should execute a bond of Rs. 1000/-each with one surety of the like amount for their appearance in this Court under Section 91 of Cr. PC.

4. The appellants then made an application under Section 435 of the CrPC in the court of the Additional Collector and the Additional District Magistrate, Poona against the order of the Sub Divisional Magistrate passed on 11 December, 1967 The Collector on 19 December, 1967, upheld the order as one under Section 117(3) of the CrPC and found that the Sub-Divisional Magistrate wrongly mentioned Section 91 of the CrPC in place of Section 117(3) of the CrPC.

5. On 16 January, 1968 the appellants made an application in revision to the High Court at Bombay against the order of the Collector. By an order dated 10 June, 1968 the High Court found that the Additional Collector rightly held that the order of the Sub-Divisional Magistrate was wrongly stated to be under Section 91 of the CrPC and that the Additional Collector had confirmed the findings of the Sub-Divisional Magistrate by holding that the order was under Section 117(3) of the CrPC. The High Court held that the bonds in the present case were directed to be executed for keeping the peace.

6. Counsel for the appellants contended that the surety bonds in the present case would amount to furnishing bail. That is totally misreading the order. The Additional Collector and thereafter the High Court both correctly held that the surety bonds were directed for keeping the peace.

7. It was next said on behalf of the appellants that even under Section 117(3) of the CrPC interim bonds can be directed only if there is a case under Section 108 or Section 109 or Section 110 of the CrPC. It was submitted that in a case under Section 107 of the CrPC the court could not direct interim bonds. This contention is unsound. The proviso to Section 117(3) speaks of cases under Section 108 or Section 109 or Section 110 of the CrPC. In proceedings under those sections bond for maintaining good behavior can be asked for. The present case is not covered by the proviso to Section 117(3) of the CrPC.

8. Section 117(3) of the CrPC confers power on the Magistrate to direct the person in respect of whom order under Section 112 of the CrPC has been made to execute a bond for keeping the peace. The respondent lodged a complaint under Section 107 of the CrPC. The Magistrate examined the appellants and the Sub-Inspector. The Magistrate has also passed an order under Section 112 of the CrPC, requiring each of the appellants to show cause why he should not be asked to furnish a surety and a personal bond for maintaining the peace.

9. The High Court correctly held that the bonds the appellants were directed to execute for keeping the peace were valid orders. For these reasons, the appeal fails and is dismissed.