

Format of Oder u/s 117 CrPC when the opponnet doesn't plead guilty and his guilt is proved after the inquiry

COURT OF HONORABLE EXECUTIVE OFFICER, _____

MAG No. -----/20

Presiding Officer

Sri _____

Date:

Applicant:

Age.....Year.....Occupation.....

against

Opponent 1)

Age.....Year.....Occupation.....

- Date of Application and section :
- Prayer in application :
- Date of order under s 111 :
- Date of commencement and closure of inquiry:

Order

Section 117 of the Criminal Procedure Code

1) The petitioner has filed an application against the respondent under Section ____ of the Criminal Procedure Code, the summary of the facts of the application is as follows

2) On examination of the facts in the said application, it was apparent that there were reasonable grounds to proceed further and hence cognisance was taken and the case was registered. As per the applicant's prayer, an order under section 111CrPC was passed asking the opponnet why a bond for Rs _____ and for the period of _____ should be taken against him.

- 3) Issued summons under section 113 to the respondent and copy of order under section 111 on date _____. Opponent was present with his lawyer. The order under Section 111 was read out to the respondent and the respondent denied the allegation made by the petitioner against him and replied that the case should be inquired. Accordingly, inquiry under Section 116(1) was taken up.
- 4) In favour of the petitioner, examination of the prosecution witnesses PW1 to PW__ has been done and exhibits P1 to P__has been marked. In favour of opponents, examination of defence witnesses DW1 to DW____has been done and exhibits A1 to A__has been marked.
- 5) Both parties arguments were heard.
- 6) The facts of the case, examination of witnesses have given rise to the following determinable points –
 - A) Does the allegations made by the petitioner including disturbance to public peace and harmony/conspiracy of making a criminal plan and absconding/ habitually indulging in criminal activities and causing threat to public peace,/endangering behaviour exist of the opponent?
 - B) Is the applicant's application worthy of acceptance?
 - C) Is it necessary to take bond for the period from ____to____for surety amount of Rs_____?
 - D) What Order?

The answer to the above determinable points is as follows-

- A) Positively;
- B) Positively;
- C) Positively;
- D) As per the final order

:Reasons:

1) Determinable factor 1 and 2 :

Since these two factors are interdependent, both are considered together. The applicant in his application----- (Summary of the application) has shown that the opponent by his conduct, in the upcoming function/election/protest/etc./ he is likely to commit acts of disturbance of public peace and harmony/Plans to commit some crime and then abscond/ Indulge in habitual criminal activity and endanger public peace and order. To confirm this, the applicant has submitted various documents as evidence like the Intelligence report, Report of beat PC, The cases registered against the opponent , the chargesheet filed., rowdy sheet details etc. These documents are taken as exhibits and have been marked as P1 to P____. In the upcoming ceremony/ election/protest, there is all possibilities of he committing crime and disturbing public peace and harmony. Therefore, the petitioner's application and the evidence presented to support them

apparently prove the facts that are necessary to obtain security to maintain good behavior of the opponent to prevent the criminal acts that may occur by him. On the other hand as the stand taken by the respondent to refute the allegations against him and also the documents and witnesses produced have failed to refute the facts proved by the petitioner and therefore the petition of the petitioner is worthy of acceptance. **Hence Point 1 and 2 are answered in the affirmative.**

- 2) By the facts of the petition and the evidences produced in favour of this, when analysed whether it is required to take a bond for a maximum period of 1 year/ 3 years under section 107/108/109/110, it was found that if we take the bond for a lesser period, the opponents activities and his criminal behaviour cant be effectively controlled. Hence if we take this for the maximum period, it is possible to maintain public interest and since the opponent will be restrained for a long period of time and obeying the conditions of the bond there is a possibility of improvement in his behavior with the attitude of obeying the law . The argument of the petitioner that by fixing the bond period for maximum time, repeated filing of the application and hearing the case can be avoided, also seems to be valid contentions.

To prove the financial condition of the respondent, petitioner has produced immovable property documents which are marked as P___ to P___. The Respondent doesn't disprove this. Also Petitioner has given in his statement that the monthly and yearly income of the opponents is Rs..... The opponent on the other hand has not produced any documents to prove that his income/salary is only this much. Hence as confirmed by the petitioner, the opponent is financially sound and it is required to get a bond signed for Rs_____. As the bond amount is more, it will increase his responsibility of keeping himself away from his bad behaviour and also it will increase the responsibility of the guarantor to ensure that the opponent will maintain good behaviour without indulging in any criminal activities. All these argument of the petitioner is positively taken and **hence this point is also determined in a positive way.**

3. As per final order

ORDER

Petitioner's application is allowed. Respondent is ordered to give bond for Rs _____ and for period _____ along with two surety from eminent persons. During this period, Respondent is hereby ordered not to indulge in any such activities which disturb public peace and harmony/shouldn't do any cognizable offence and abscond/should not habitually indulge in any criminal activities/shouldn't endanger the public peace and order/should not become dangerous and exhibit only good behaviour.

Place: _____

Date: _____

Sd-
Executive Magistrate

LIST OF WITNESSES

In favour of the applicant

1) PW1 _____

2) PW2 _____

In favour of the Respondent

- 1) DW1_____
- 2) DW2_____

LIST OF RECORDS

In favour of the petitioner

- 1) EP1_____
- 2) EP2_____

In favour of the Respondent

- 1) ED1_____
- 2) ED2_____

Place

Date

Signature

Executive Magistrate