

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.39028 of 2015

ORDER:

The challenge in this writ petition is to the proceedings dated 20.11.2015 passed by the Tahsildar and Mandal Executive Magistrate, Khammam Rural Mandal, Khammam District, the third respondent. By the said proceedings, the third respondent exercised powers under Section 122(b) Cr.P.C. and ordered the petitioner to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the petitioner being bound over for good behaviour on 30.10.2015 for a like sum.

The impugned proceedings reflect that after being bound over, the petitioner was implicated in COR No.1133/2015-16 in relation to an incident which occurred on 09.11.2015. Owing to the alleged involvement of the petitioner in the said offence, the third respondent concluded that it was a proved misconduct and a willful breach and violation of the bond furnished by the petitioner under Section 110 Cr.P.C.

Having received instructions in the matter, the learned Assistant Government Pleader for Excise conceded that no enquiry was conducted under Section 117 Cr.P.C. before exercise of powers under Section 122 Cr.P.C. That apart, this Court is of the opinion that mere arraignment in an offence cannot be taken to be a conviction whereby it could be said that the petitioner had committed a breach of the bond furnished by him for maintaining good behaviour.

Thus, on counts more than one, the impugned proceedings dated 20.11.2015 are unsustainable and are therefore set aside.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

2nd December, 2015

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