

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.39885 of 2015

ORDER:

The challenge in this writ petition is to the notice dated 27.11.2015 issued by the Executive Magistrate and Tahsildar, Geesugonda Mandal, Warangal District, the third respondent. By the said notice, the third respondent exercised powers under Section 122(b) Cr.P.C. and ordered the petitioner to pay a sum of Rs.50,000/-. This payment was directed in the context of the petitioner being bound over for good behaviour on 09.09.2015 for a like sum.

The impugned notice reflects that after being bound over, the petitioner was implicated in COR Nos.539/2015-16 and 605/2015-16 in relation to incidents which occurred on 27.09.2015 and 26.10.2015 respectively. Owing to the alleged involvement of the petitioner in the said offences, the third respondent concluded that the petitioner committed breach of the bond furnished by him 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 notice dated 27.11.2015 is unsustainable and is 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

9th December, 2015

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