

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**WRIT PETITION No.4102 of 2016**

**ORDER:**

The challenge in this writ petition is to the notice dated 03.12.2015 issued by the Executive Magistrate, Elkathurthy 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.1,00,000/-. This payment was directed in the context of the petitioner being bound over for good behaviour on 26.09.2015 for a like sum.

2. The impugned notice reflects that after being bound over, the petitioner was implicated in COR Nos.498/2015-16 dated 09.11.2015 in relation to an offence under Section 7(A) r/w 8(e) of Prohibition Act, 1995. Owing to the alleged involvement of the petitioner in the said offence, the third respondent concluded that the petitioner committed breach of the bond furnished by her under Section 110 Cr.P.C.

3. 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 her for maintaining good behaviour.

4. Thus, on counts more than one, the impugned notice dated 03.12.2015 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.

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**JUSTICE SANJAY KUMAR**

**February 10, 2015**

**Note:-Furnish copy today.**

**{B/o} LMV**