

THE HON'BLE SRI JUSTICE RAJA ELANGO

CrI.R.C.No.3096 of 2015

ORDER

This Criminal Revision Case is filed by the petitioner-accused challenging the order dated 20.11.2015 in Proceedings No.B/15/2015 passed by the Tahsildar and Mandal Executive Magistrate at Tekulapalli, Khammam District, for forfeiture of bond for good behaviour and payment of penalty of Rs.1,00,000/-.

2. The Prohibition and Excise Inspector, Yellandu, lodged a complaint before the Mandal Executive Magistrate at Tekilapally, alleging that the petitioner was selling black jaggery and alum after imposition of prohibition and therefore prayed to bind over him for good behaviour. As per the orders, the petitioner was binded over for good behaviour for a period of twelve months for an amount of Rs.1,00,000/- on 13.10.2015. Since the petitioner committed breach of bond by committing another crime, the Tahsildar and Mandal Executive Magistrate, Tekulapalli, issued proceedings dated 20.11.2015 for forfeiture of bond for good behaviour and directing him to pay the said penalty of Rs.1,00,000/- within one week from the date of receipt of the notice. It is also observed that in case of non-compliance of the order, the petitioner is liable to be committed to prison. Challenging the same, the present revision is filed.

3. Learned counsel for the petitioner contends that the impugned proceedings were issued without conducting an enquiry under Section 110 Cr.P.C. and also an enquiry under Section 122 Cr.P.C., and as such, the impugned proceedings were issued without following the procedure under Chapter VIII of Cr.P.C., and therefore, the same is not sustainable.

4. Having heard the learned counsel for the petitioner and the learned Public Prosecutor, and perusing the record, this Court is of the view that the procedure under Chapter VIII Cr.P.C., contemplates the regular proceedings

before the Executive Magistrate and that the authority concerned has to conduct an enquiry before issuance of the impugned notice to substantiate the fact that the petitioner has violated the conditions of the bond. After conducting such enquiry, the authority concerned shall pass appropriate orders in accordance with law. In the present case, the learned Magistrate has not followed the procedure under Chapter VIII Cr.P.C.

5. Considering the facts and circumstances of the case, the Criminal Revision Case is disposed of with the following direction:

“The order under revision is set aside and the learned Magistrate is directed to conduct an enquiry afresh. If it is found in the enquiry that the petitioner committed any offence subsequent to the execution of the bond alleged to have been executed by him, the authorities concerned are at liberty to pass appropriate orders.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE RAJA ELANGO

11th December, 2015

sj