

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL REVISION CASE No.2880 of 2016

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 03.11.2016 passed in M.C.No.4199 of 2015 by the Executive Magistrate, Deverkonda Mandal, Nalgonda District.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents.

3. On 03.11.2016, the Executive Magistrate, Deverkonda Mandal, Nalgonda District, passed the following order:

“Whereas on the 23rd day of September 2016 you have entered into a bond of security for Good Behaviour for a period of one year and bound yourself in default thereof the sum of Rs.____ Bond by committing an offence under Section 34(e) of TSPE Act 1968, and Clause 3, 4 of GUR Regulation of Use Order, 1968 vide crime case No.COR.228/2016 dated 01.11.2016 of Prohibition & Excise Station, Deverkonda.

You are hereby required to pay the said penalty of Rs.2,00,000/- or show cause within seven (7) days why it should not be adjudged for imprisonment until such bond period expires.”

4. A perusal of the record clearly reveals that the learned Executive Magistrate directed the petitioner to pay penalty of Rs.2,00,000/-. It is settled law that no quasi or judicial order can be passed without affording reasonable opportunity to the affected party. Passing of any order without giving reasonable opportunity to the

affected party would amount to violation of principles of natural justice. Admittedly, in the instant case, the order is being passed by the Executive Magistrate, without giving any opportunity to the petitioner leave apart non-following of the procedure contemplated under the Code of Criminal Procedure. If the order is allowed to stand, it would amount to miscarriage of justice. If there is any illegality or irregularity or impropriety in the orders passed by the lower authority, this Court can set aside the same by exercising the revisional jurisdiction under Section 397 Cr.P.C.

5. Having regard to the above facts and circumstances of the case, the impugned order dated 03.11.2016 passed in M.C.No.4199 of 2015 is set aside and the learned Executive Magistrate is hereby directed to pass appropriate orders in accordance with law, after affording reasonable opportunity to the petitioner.

6. The criminal revision case is, accordingly, allowed. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T. SUNIL CHOWDARY, J

14th November 2016.

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