

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.3407 OF 2016

ORDER

The challenge in this writ petition is to the notice dated 29.12.2015 issued by the Tahsildar and Executive Magistrate, Mahabubabad, the second respondent. By the said notice, the second respondent exercised powers under Section 122(b) Cr.P.C. and ordered one Meesala Muthyalau, W/o Ramulu, who is stated to be the relative of the petitioner, to pay a sum of Rs.1,00,000/-. This payment was directed in the context of Meesala Muthyalau being bound over for good behaviour on 28.09.2015 for a like sum.

The impugned notice reflects that after being bound over, Meesala Muthyalau was implicated in COR No.765/2015-16 in relation to an offence under Section 7(A) read with Section 8(e) of the A.P. Prohibition Act, 1995. Owing to her alleged involvement in the said offence, the second respondent concluded that she committed breach of the bond furnished by her under Section 110 Cr.P.C.

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 accused had committed a breach of the bond furnished by her for maintaining good behaviour.

Thus, on this count, the impugned notice dated 29.12.2015 is unsustainable and is therefore set aside. As a consequence, the detention of Meesala Muthyalau owing to the failure to pay the amount of penalty would also be rendered illegal.

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.

SANJAY KUMAR, J

4th FEBRUARY, 2016

Note: Issue C.C. today.

B/o Svv