

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.2938 OF 2016

ORDER:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 05.11.2016 passed in MC.B/1295/2016 by the Special Executive Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent (TS).

3. On 05.11.2016, the Special Executive Magistrate, Hyderabad District, passed the following order.

“Whereas on 26.07.2016 you became respondent by a bond you would be of good behaviour for a period of one year and bound yourself in default thereof to forfeit the sum of Rs.50,000/- (Rupees Fifty Thousand only) to the Government and whereas if you have again committed the offence of sale of illicitly distilled country liquor in a crude and unscientific method, which is unfit for consumption and could also be lethal if consumed, committed since you became such respondent, whereby your security bond has become forfeited.

You are therefore hereby required to pay the said penalty of Rs.50,000/- (Rupees Fifty Thousand only) or to show cause before me within (07) working days as to why the payment of the same should not be enforced against you.”

4. A perusal of the record clearly reveals that the learned Executive Magistrate directed the petitioner to pay penalty of Rs.50,000/-. 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 the procedure as 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 facts and circumstances of the case, the impugned order dated 05.11.2016 passed in MC.B/1295/2016, 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, if any pending in this case, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 18.11.2016

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