

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.14005 of 2016

ORDER:

The challenge in this writ petition is to the notice dated 28.03.2016 issued by the Executive Magistrate and Tahsildar, Warangal, the second respondent. By the said notice, the second respondent exercised powers under Section 122(b) Cr.P.C. and ordered one Md. Masuk Bee, who is the mother of the petitioner, to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the said Md. Masuk Bee being bound over for good behaviour on 08.12.2015 for a like sum.

The impugned notice reflects that after being bound over, the said Md. Masuk Bee was implicated in COR No.83/2016 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 28.03.2016 is unsustainable and is therefore set aside. As a consequence, the detention of Md. Masuk Bee owing to the failure to pay the amount of penalty would also be rendered illegal. The respondent authorities shall forthwith release the detenu.

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.

JUSTICE SANJAY KUMAR

22nd April, 2016

Note:-

Issue CC today.

B/o

PGS/IBL