

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.2665 of 2016

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 13.10.2016 passed in M.C.B/ 865/ 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 13.10.2016, the Special Executive Magistrate, Hyderabad District, passed the following order.

“Whereas on 10.05.2016 you become surety by a bond for Respondent Sri Mahender Singh S/o Mohan Singh R/o 14-10-875 Jungur Basthi, Dhoolpet, Hyderabad that he would be of good behaviour for a period of 3 years and bound yourself in default thereof to forfeit the sum of Rs.1,00,000/- (Rupees one lakh only) to the Government and whereas the said Sri Mahender Singh to 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 surety, whereby your security bond has become forfeited.

You are therefore hereby required to pay the said penalty of Rs.1,00,000/- (Rupees one lakh 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.”

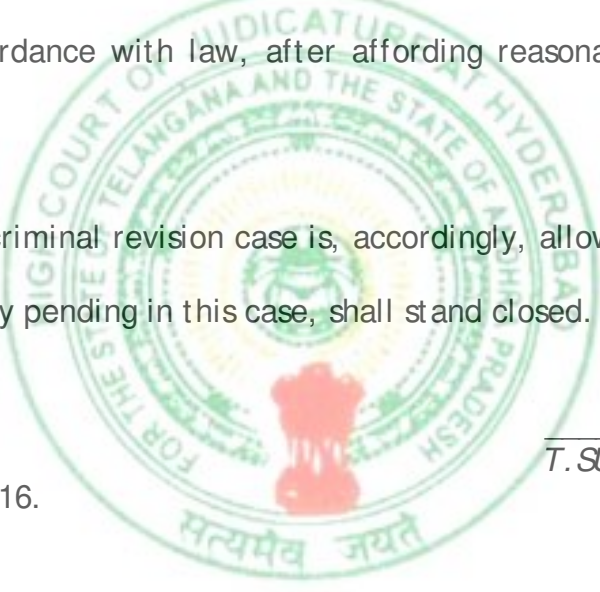
4. A perusal of the record clearly reveals that the learned Executive Magistrate directed the petitioner to pay penalty of Rs.1,00,000/-. It is settled law that no quasi or judicial order can be passed without affording reasonable opportunity to the affected party. Passing of any order without giving 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 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 13.10.2016 passed in M.C.B/ 865/ 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.

Date: 27.10.2016.
BSS

T. SUNIL CHOWDARY, J

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

20

CrI.R.C. No.2665 of 2016



Date: 27.10.2016

BSS