

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.6272 OF 2016

ORDER:

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This Criminal Petition is filed by the petitioner/accused under Section 482 Cr.P.C. seeking to quash the proceedings against him in M.C.No.17 of 2016 on the file of the Mandal Executive Magistrate, Rajanagaram, East Godavari District.

2. It is the case of the prosecution that the petitioner entered into a bond for good behavior for a period of one year before the Mandal Executive Magistrate on 10.2.2016 for a sum of Rs.50,000/-. Subsequently, basing on the report, dated 12.4.2016, of the Station House Officer, Prohibition and Excise Station, Rajamahendravaram South, the learned Mandal Executive Magistrate, having come to the conclusion that the petitioner violated the bond, issued notice of forfeiture directing the petitioner to pay penalty of Rs.50,000/- i.e., the amount of bond, within 15 days or to show a cause. Aggrieved by the said order, the petitioner filed this petition.

3. Heard and perused the material available on record.

4. Learned counsel for the petitioner contended that the petitioner never executed any bond as alleged in the notice and further, even if it is admitted that such bond was executed by him, the authorities should conduct an enquiry and pass appropriate orders, but the impugned notice issued by the authorities is without there being

any enquiry and the same is against the principles of natural justice and the provisions of the Code of Criminal Procedure.

5. Considering the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, this Court is of the view that the impugned notice was issued without any application of mind by the authorities. It is also evident from the dates mentioned in the said notice that the authorities concerned have not conducted any enquiry regarding the fact of subsequent registration of the crime. Hence, it is a fit case to quash the proceedings in the above M.C.

6. Accordingly, the Criminal Petition is allowed setting aside the proceedings against the petitioner in M.C.No.17 of 2016 on the file of the Mandal Executive Magistrate, Rajanagaram, East Godavari District. It is made clear that the respondent, if so desires, is at liberty to proceed further in accordance with law after issuance of fresh notice to the petitioner. Consequently, miscellaneous petitions pending, if any, shall stand closed.

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JUSTICE RAJA ELANGO

26.4.2016
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