

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.3686 of 2016

ORDER:

The challenge in this writ petition is to the proceedings dated 20.01.2016 issued by the Tahsildar and Mandal Executive Magistrate, Musthabad, the second respondent. By the said proceedings, the second respondent exercised powers under Section 122(b) Cr.P.C. and ordered one Bhukya Jagan S/o Bheema Nayak, who is stated to be the son of the petitioner, to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the said Bhukya Jagan being bound over for good behaviour on 28.09.2015 for a like sum.

The impugned proceedings reflect that after being bound over, the said Bhukya Jagan was implicated in COR No.514 /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 his alleged involvement in the said offence, the second respondent concluded that he committed breach of the bond furnished by him 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 him for maintaining good behaviour.

Thus, on this count, the impugned proceedings dated 20.01.2016 are unsustainable and are therefore set aside. As a consequence, the detention of Bhukya Jagan 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.

JUSTICE SANJAY KUMAR

5th February, 2016

Note:-

Issue CC today.

B/o

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