

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.17893 OF 2016
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ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise and the learned Government Pleader for Revenue. With consent of both the counsel, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of writ of *mandamus* declaring the action of the 3rd respondent in issuing the impugned proceedings M.C.No.3119 of 2015, dated 16.12.2015 and collecting Rs.1,00,000/- from the petitioner forcibly on the ground of alleged violation of security bond or to undergo the imprisonment for the period of one year as illegal and arbitrary and consequently, to direct the 3rd respondent to drop all further proceedings pursuant to the impugned notice dated 16.12.2015 and also to refund the collected deposited amount of Rs.1,00,000/- to the petitioner.

3. The impugned notice reflects that after being bound over, the petitioner was implicated in PCOR No. 784/2015-16, dated 16.12.2015 of Prohibition and Excise Station, Kodangal, Mahaboobnagar District, in relation to an offence under Section 34(a) of the Andhra Pradesh Excise Act, 1968. Owing to the alleged involvement of the petitioner in the said offence, the third respondent concluded that the petitioner committed breach of the bond furnished by him under Section 110 Cr.P.C.

4. Having received instructions in the matter, the learned

Government Pleader for Prohibition and Excise conceded that no enquiry was conducted under Section 117 Cr.P.C. before exercise of powers under Section 122 Cr.P.C. That apart, 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 petitioner had committed a breach of bond furnished by him for maintenance of good behaviour.

5. Thus, on counts more than one, the impugned notice dated 16.12.2015 is unsustainable and is, therefore, set aside.

6. The Writ Petition is accordingly allowed.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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JUSTICE C. PRAVEEN KUMAR

Date: 08.06.2016

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