

THE HON'BLE SRI JUSTICE PRAVEEN KUMAR

WRIT PETITION No.16975 of 2016

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ORDER:

The challenge in this writ petition is to the notice dated 13.05.2016 issued by the Executive Magistrate and Tahsildar, Warangal - the second respondent. By the said notice, the second respondent exercised powers under the provisions of Section 122 of Cr.P.C. and ordered the maternal aunt of the petitioner to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the maternal aunt of petitioner being bound over for good behaviour on 27.01.2016 for a like sum.

The impugned notice reflects that after being bound over, the maternal aunt of the petitioner was implicated in COR No.121/2016 in relation to an offence under Section 7(A) read with Section 8(e) of the Prohibition Act, 1995. Owing to the alleged involvement of the maternal aunt of the petitioner in the said offence, the third respondent concluded that the accused 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 maternal aunt of the petitioner had committed a breach of the bond furnished by her for maintaining good behaviour.

Thus, on this count, the impugned notice dated 13.05.2016 is unsustainable and is therefore set aside. As a consequence, the detention of Md. Jaheera owing to the failure to pay the amount of penalty would also be rendered illegal. The respondent authorities shall forthwith release the detenue.

Accordingly, 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 PRAVEEN KUMAR

01st June, 2016
VHB