

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 16985 of 2016

ORDER :

Heard both sides. With the consent of both the counsel, the Writ Petition itself is taken up for disposal at the stage of admission.

2. Challenge in this Writ Petition is to the notice dated 16.12.2015 issued by the third respondent. By the said notice, the third respondent exercised powers under Section 122 (b) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') and ordered the petitioner to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the petitioner being bound over for good behaviour on 08.10.2015 for a like sum.

3. The impugned notice reflects that after being bound over, the petitioner was implicated in PCOR No. 785/2015-16, 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 Assistant Government Pleader for 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. Miscellaneous petitions pending, if any, in the Writ Petition shall stand closed in the light of this final order. No order as to costs.

C.PRAVEEN KUMAR, J

02.06.2016
DRK

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