

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.12582 of 2016

ORDER:

The challenge in this writ petition is to the notice dated 13.02.2016 issued by the Executive Magistrate and Tahsildar, Agiripalli Mandal, the second respondent. By the said notice, the second respondent exercised powers under Section 122(b) Cr.P.C. and ordered one T. Rajendra, 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 T. Rajendra being bound over for good behaviour on 13.02.2016 for a like sum.

The impugned notice reflects that after being bound over, the said T. Rajendra was implicated in an excise offence as reported by the Station House Officer, Prohibition and Excise Station, Nuzvidu, on 15.03.2016. Owing to her 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 notice dated 13.02.2016 is unsustainable and is therefore set aside. As a consequence, the detention of T. Rajendra owing to the failure to pay the amount of penalty would also be rendered illegal. The respondent authorities shall forthwith release the detenu.

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

13th April, 2016
PGS