

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.8720 of 2016

ORDER:

The challenge in this writ petition is to the notice dated 12.03.2016 issued by the Executive Magistrate, Mahabubabad, the third respondent. By the said notice, the third respondent exercised powers under Section 122(b) 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 18.01.2016 for a like sum.

2. The impugned notice reflects that after being bound over, the petitioner was implicated in COR No.149/2016 dated 02.03.2016 in relation to an offence under Section 34(e) of A.P.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.

3. 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 the bond furnished by him for maintaining good behaviour.

4. Thus, on counts more than one, the impugned notice dated 12.03.2016 is unsustainable and is therefore set aside.

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

March 17, 2016
PGS/LMV