

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1379 of 2016

ORDER:

1. This Criminal Revision Case is filed by the petitioner challenging the proceedings dated 11.4.2016 passed by the Executive Magistrate, Mellacheruvu in M.C.No.160 of 2016.

2. Brief facts of the case are as follows:

On 4.2.2016, the Executive Magistrate, Mellacheruvu Mandal issued a notice of forfeiture of Bond for good behaviour, as under:

“Whereas on 8th October, 2015 you have entered into a bond of security for Good behaviour for a period of one year and bound yourself in default thereof to forfeit the sum of Rs.1,00,000/- to the Government and whereas you have been committed a breach of bond by committing an offence under Section 7(A) r/w 8 (e) of Prohibition Act in Crime case No.COR No.15/2016, dated 24.1.2016 of Prohibition and Excise Station, Huzurnagar.

You are hereby required to pay the said penalty of Rs.1,00,000/- or show cause within 20 days why you should not be adjudged for imprisonment until such bond period expires.”

3. As there was no explanation, the Executive Magistrate issued a notice dated 29.3.2016 directing him to appear before him within 7 days. The petitioner did not appear before the Executive Magistrate. The Prohibition & Excise Inspector produced the petitioner on 11.4.2016. The petitioner stated that he is not having capacity to pay the fine. As the petitioner failed to comply with the order, he has been adjudged for imprisonment till period of bond expires viz., till 7.10.2016. Aggrieved by the same, the petitioner filed this revision.

4. Learned Counsel for the petitioner submitted that no enquiry was conducted against the petitioner and that the order under revision does not stand to the test of legal scrutiny.

5. Learned Additional Public Prosecutor opposed this revision stating that there is no illegality in the order under challenge.

6. In the instant case, the impugned order was passed holding that the petitioner committed breach of bond by committing an offence

punishable under Section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 and as such, the petitioner is required to pay penalty of Rs.1,00,000/- to show cause within 20 days. As he failed to give explanation, he was adjudged for imprisonment till the period of such bond expires. The order does not indicate anything as to whether any enquiry was conducted into the truth of the information upon which the learned Magistrate issued notice dated 4.2.2016 and whether there was any such other ground to forfeit amount mentioned in the bond itself. As the order under challenge came to be passed without conducting proper enquiry, the same is liable to be set aside.

7. In the result, the Criminal Revision Case is allowed setting aside the proceedings dated 11.4.2016 passed in M.C.No.160 of 2016 by the Executive Magistrate/Tahsildar, Mellacheruvu, and the Executive Magistrate/Tahsildar, Mellacheruvu shall proceed with the matter i.e., M.C.No.160 of 2016 after hearing the aggrieved person and in accordance with the procedure contemplated under law.

8. The petitioner shall be set at liberty, if he is not required in any other crime.

9. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 7.6.2016

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