

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1738 of 2016

ORDER:

This Criminal Revision Case is filed by the petitioner challenging the proceedings dated 30.03.2016 passed by the Executive Magistrate, Garidepally in M.C.No.GRP/7/2016.

Brief facts of the case are that the petitioner is said to have been executed a bond for good behaviour for a period of one year before the Executive Magistrate, Garidepally, on 20.02.2016 for a sum of Rs.1,00,000/-. Subsequently, it was reported that the petitioner committed breach of bond by committing another offence under Section 7 (A) r/w.8 (e) of A.P. Prohibition Act, 1995 in COR No.57/2016, on 03.03.2016 on the file of Prohibition & Excise Station, Huzurnagar. Therefore, the Executive Magistrate has issued notice of forfeiture against the petitioner requiring her to pay the penalty of Rs.1,00,000/- or to show cause within (20) days as to why she should not be adjudged for imprisonment until such bond period expires.

Heard and perused the material available on record.

Learned Counsel for the petitioner submitted that no enquiry was conducted against the petitioner with regard to the commission of similar crime, and that the order under revision does not stand to the test of legal scrutiny.

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

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 she failed to give explanation, she 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 30.03.2016, and whether there was any such other ground to forfeit the 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.

In the result, the Criminal Revision Case is allowed setting aside the proceedings dated 30.03.2016 passed in M.C. No.GRP/7/2016 and the consequential order, dated 27.05.2016, passed by the Executive Magistrate, Garidipally, Nalgonda District. The Executive Magistrate, Garidipally shall proceed with the matter i.e. M.C. No.GRP/7/2016 after hearing the aggrieved person and in accordance with the procedure contemplated under law.

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

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

RAJA ELANGO, J

July 05, 2016.

KTL