

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.1615 of 2016

ORDER:

This Criminal Revision Case is filed by the petitioner challenging the proceedings, dated 03.06.2016, in M.C.No.56 of 2016 passed by the Tahsildar & Mandal Executive Magistrate at Geesugonda, Warangal District.

Brief facts of the case as follows:

On 03.06.2016, the Tahsildar & Mandal Executive Magistrate, Geesugonda, issued a notice of forfeiture of Bond for good behaviour to the petitioner, as under:

“Whereas on the 26th day of March 2016 you have entered into a bond with self/(2) sureties for your good behaviour before this court on 26.03.2016 for a period of (6) months and in your default therein to forfeit to the Government a sum of Rs.1,00,000-00.

Whereas, you have committed an offence vide report 7th cited by the Station House Officer, Prohibition and Excise Station: Warangal Rural and thereby you have breached the bond that you entered into before this Court.

Hence, you are hereby required to pay the said penalty of Rs.1,00,000-00 i.e., the amount of bond that you bound yourself before this Court for his good behaviour or show a cause within (7) days as to why you should not be adjudged for imprisonment until the expiry of the bond period.”

As the petitioner failed to comply with the above notice, vide proceedings, dated 20.06.2016, he has been adjudged for imprisonment till expiry of the period of bond. Aggrieved by the same, the petitioner filed this revision.

Learned counsel for the petitioner submitted that no enquiry was conducted against the petitioner and hence, the notice 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 notice under revision.

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/- or to show a cause within 7 days. As he failed to give explanation, he was adjudged for imprisonment till the period of such bond expires. The notice does not indicate anything as to whether any enquiry was conducted into the truth of the alleged offence committed by the petitioner and whether there was any such other ground to forfeit the amount mentioned in the bond itself. As the notice 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 03.06.2016 passed in M.C.No.56 of 2016 by the Tahsildar & Mandal Executive Magistrate, Geesugonda, and the Tahsildar & Mandal Executive Magistrate, Geesugonda shall proceed with the matter i.e., M.C.No.56 of 2016 after hearing the aggrieved person and in accordance with the procedure contemplated under law.

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

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

RAJA ELANGO, J

June 23, 2016.
KTL