

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY
CRIMINAL REVISION CASE NO.3257 of 2016

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 11.11.2016 passed in M.C.No.7 of 2016 by the Mandal Executive Magistrate, Kadlyam, East Godavari District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent (A.P.).

3. Learned counsel for the petitioner submitted that the petitioner was enlarged on bail by order, dated 07.09.2016 in CrI.M.P.No.4149 of 2016 in Cr.No.46/2016-17 on the file of the Prohibition and Excise Station, Rajamahendravaram (south).

4. On 11.11.2016, the Mandal Executive Magistrate, Kadlaym, East Godavari District, passed the following order.

“Whereas on the day of 12.02.2016 you have entered into a bond with self sureties for your good behaviour for before this Court or 12.02.2016 for a period of (1) year and in your default therein to forfeit to the Government a sum of Rs.1,00,000/-

Whereas, the Station House Officer, Prohibition and Excise Station, Rajamahendravaram, South, vide reference 7th cited reported that you have committed an offence and thereby you have breached the bond that you entered into before this Court. Whereas, a notice for enquiry was served upon you vide reference 8th cited calling for to prove to the satisfaction of this court that you have/have not breached the bond you have executed before this Court.

Whereas, the above enquiry held on 10.11.2016 proved to the satisfaction of this court that you have breached the bond you have executed before this Court.

Hence, you are therefore hereby required to pay the said penalty of Rs.1,00,000/- the amount of bond that you have bound yourself before this Court for your god behaviour or to show cause within (ten) days as to why

you should not be adjudged for imprisonment until the expiry of the bond period.”

5. A perusal of the record clearly reveals that the learned Mandal Executive Magistrate directed the petitioner to pay penalty of Rs.1,00,000/-. It is settled law that no quasi or judicial order can be passed without affording reasonable opportunity to the affected party. Passing of any order without giving reasonable opportunity to the affected party, would amount to violation of principles of natural justice. Admittedly, in the instant case, the order is being passed by the Executive Magistrate, without giving any opportunity to the petitioner leave apart non-following the procedure as contemplated under the Code of Criminal Procedure. If the order is allowed to stand, it would amount to miscarriage of justice. If there is any illegality, or irregularity or impropriety in the orders passed by the lower authority, this court can set aside the same by exercising the revisional jurisdiction under Section 397 Cr.P.C.

6. Having regard to the facts and circumstances of the case, the impugned order dated 11.11.2016 passed in M.C.No.7 of 2016, is set aside and the learned Mandal Executive Magistrate is hereby directed to pass appropriate orders in accordance with law, after affording reasonable opportunity to the petitioner.

7. Accordingly, the Criminal Revision Case is allowed. Miscellaneous petitions, if any pending in this case, shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 02-01-2017.
Hsd

