

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1747 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity) is directed against the proceeding/notice, dated 22.05.2017, forfeiting the 'Bond for Good Behaviour' in MC.No.610/2/2017, issued by the Executive Magistrate, Hasanparthy Mandal.

2. I have heard the submissions of *Sri B.Muralidhar*, learned counsel for the petitioner, and of the learned Public Prosecutor, State of Telangana. I have perused the material record.

3. A perusal of the impugned notice would show that for violation of the conditions of the security bond for good behaviour given by the petitioner, the said bond was forfeited and the petitioner was required to pay a penalty of Rs.1,00,000/- or to show cause to the said Executive Magistrate within seven days as to why she should not be adjudged for imprisonment until such bond period expires.

4. As the petitioner failed to comply with the notice, it appears that she has been adjudged for imprisonment and steps are being initiated for her arrest and remand to prison. Hence, the petitioner is before this Court.

5. Learned counsel for the petitioner would submit that no enquiry as contemplated under law was conducted either before giving the notice or after the alleged violation on the part of the petitioner to comply with the show cause notice and no opportunity of hearing was also accorded. He would also submit that the time of seven days as mentioned in the notice is not a sufficient time considering the financial status of the petitioner and that no sufficient opportunity was afforded to the petitioner to offer her explanation or to pay the

huge and unreasonable penalty demanded in the notice and that the notice does not disclose any material or the basis on which it was assumed that the petitioner violated the conditions of the bond. However, he submits that the petitioner was enlarged on bail in the crime referred to in the impugned notice.

6. Learned Public Prosecutor would submit that the instant revision on the ground that there is illegality in issuing the impugned notice is not maintainable, as, in-fact, there is no illegality in issuing the notice under challenge and that the petitioner was given an opportunity to show cause within seven days, but, she failed either to show any cause or pay the penalty demanded and that, therefore, the revision case is liable to be dismissed.

7. In the instant case, the impugned proceeding/notice was issued holding that the petitioner by committing the offences under Section 7(A) read with Section 8(e) of the Prohibition Act, and Section 34 (e) of the A.P. Excise Act, committed breach of the bond and that a Crime in COR No.78/2017, dated 19.04.2017, was registered by the Prohibition & Excise Station, Hanamkonda and, therefore, she is required to pay the penalty of Rs.1,00,000/- or show cause within seven days as to why payment of the same should not be enforced against her. The notice does not indicate specifically anything as to any prior enquiry has been made for ascertaining the truth and for formulating an opinion that the conditions of the bond are violated and that there are valid grounds for forfeiting the bond. The proceeding/notice impugned only states that there was a violation by commission of an offence, but, does not disclose any further details thereof with regard to the source of information, quantity of such contraband, if any, place, date & time of the alleged offence etcetera. Thus, *prima facie*, it appears that the proceeding/notice was issued without conducting proper enquiry and therefore, the same is liable to be set aside.

8. In the result, the Criminal Revision Case is allowed setting aside the proceeding/notice in MC.No.610/2/2017, dated 22.05.2017, issued by the Executive Magistrate, Hasanparthy Mandal, Warangal [Urban] District, and, the said learned Executive Magistrate is now directed to proceed with the matter afresh after giving an opportunity of hearing to the petitioner, however, in accordance with the procedure envisaged under law. It is made clear that the petitioner shall not be subjected to arrest and detention in the instant matter till such enquiry is completed and a speaking order is made in the matter.

Pending miscellaneous petitions, if any, shall stand closed.

June 28, 2017

Note:-

Furnish copy by tomorrow.

{B/o}

Lmv

JUSTICE M.SEETHARAMA MURTI

