

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.364 of 2017

ORDER:

This revision case is preferred under Sections 397 and 401 of Code of Criminal Procedure (fort short "Cr.P.C.") questioning the notice of forfeiture of bond for good behaviour in MC.No.D/10262/2016 issued by the Executive Magistrate and Tahsildar, Wardhannapet.

In the impugned notice, it is alleged that the petitioner herein entered into a bond of security for good behaviour for a period of 6 months and the petitioner is bound in default thereof to forfeit the sum of Rs.1,00,000/- to the Government and whereas the petitioner is guilty of breach of bond by committing an offence under Section 7 (A) read with 8 (e) of Prohibition Act in Crime vide occurrence report in COR No.387 of 2016 dated 02.12.2016 and therefore directed the petitioner to pay the said penalty of Rs.1,00,000/- or show cause within seven days as to why the petitioner should not be adjudged for imprisonment until such bond period expires.

The bond was executed on 03.11.2016 and the period of six months already expired by 03.05.2017 and the impugned notice was issued on 19.01.2017 i.e. before expiry of bond period of six months, on the ground that the petitioner committed breach of bond by committing an offence under Section 7 (A) read with 8 (e) of Prohibition Act.

Sri B.Muralidhar, learned counsel for the petitioner contended that the notice for forfeiture cannot be ordered directly without giving any opportunity and he placed reliance on the orders of this Court rendered in CrI.R.C.No.2060 of 2016 dated 10.08.2016

and Crl.R.C.No.1542 of 2016 dated 17.06.2016. On the strength of the principles laid down in the above judgment, he contended that the notice under challenge for forfeiture of bond for good behaviour cannot be sustained.

Notice was served on the respondent, but none appeared.

During hearing learned counsel for the petitioner argued totally based on two orders of this Court referred supra. Admittedly, notice was issued calling upon the petitioner to show-cause as to why the bond of security for good behaviour executed by him for a period of six months cannot be forfeited. The petitioner is entitled to file an explanation for the show-cause notice explaining the reasons, but demanding the petitioner to pay Rs.1,00,000/- without any enquiry, is an illegality committed by the Executive Magistrate concerned.

In view of the earlier orders of this Court referred supra, the petitioner is directed to give his explanation to the impugned notice within two weeks from today and on such explanation, the Executive Magistrate, Wardhannapet is directed to conduct an enquiry as per the provisions of Cr.P.C. and pass appropriate orders in accordance with law.

With the above directions, the criminal revision case is disposed of.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

08.09.2017
Ksp