

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1748 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 14.06.2017, forfeiting the 'Bond for Good Behaviour' in MC.No.B/07/2016, issued by the Special Executive Magistrate, Hyderabad District.

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 proceeding/notice would show that for violation of the conditions of the bond of 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 Special Executive Magistrate within seven working days as to why legal action should not be initiated against her.

4. As the petitioner failed to comply with the proceeding/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 working 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.

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 again committed an offence by selling Illicitly Distilled Country Liquor in a crude and unscientific method and that the same is unfit for consumption and is lethal if consumed and committed the breach of the bond and therefore, she is liable to pay the penalty of Rs.1,00,000/- or to show cause within seven working days as to why legal action should not be initiated against her. The order 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 the petitioner committed the offence of sale of illicitly distilled country liquor in a crude and unscientific method and that the said contraband is unfit for consumption and is also lethal if consumed, and that she committed an offence; but, it 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.B/07/2016, dated 14.06.2017, issued by the Special Executive Magistrate, Hyderabad District and, the said learned Special 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

