

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No. 19966 OF 2017

ORDER:

The challenge in this writ petition is to the notice dated 15.06.2017 issued by the Tahsildar/ Executive Magistrate, Anumula Mandal, Nalgonda District, the fourth respondent. By the said notice, the fourth respondent exercised powers under Section 122(b) Cr.P.C. and ordered the petitioner to pay a sum of Rs.2,00,000/- . This payment was directed in the context of the petitioner being bound over for good behaviour on 30.11.2016 for a like sum.

The impugned notice reflects that after being bound over, the petitioner was implicated in Crime No.17/ 2017 dated 25.05.2017 for committing an offence by possessing jaggery meant to abet ID-Liquor. Owing to the alleged involvement of the petitioner in the said offence, the fourth respondent concluded that the petitioner committed breach of the bond furnished by him under Section 110 Cr.P.C.

Having received instructions in the matter, the learned Assistant Government Pleader for Excise conceded that no enquiry was conducted under Section 117 Cr.P.C. before exercise of powers under Section 122 Cr.P.C. That apart, this Court is of the opinion that mere arraignment in an offence cannot be taken to be a conviction whereby it could be said that the petitioner had committed a breach of the bond furnished by him for maintaining good behaviour.

Thus, on counts more than one, the impugned notice dated 15.06.2017 is unsustainable and is therefore set aside.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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JUSTICE RAJA ELANGO

Date:20.06.2017  
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