

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.41 of 2017

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 28.11.2016 passed in M.C.No.117 of 2016 by the Executive Magistrate, Rajanagaram.

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

3. On 28.11.2016, the Executive Magistrate, Rajanagaram, passed the following order.

“Whereas on the date of 18.02.2016, you have entered into a bond with self () sureties for your good behavior before this court on 18.02.2016 for a period of (1) year and in your default therein to forfeit to the Government a sum of Rs.50,000/-.

Whereas, Station House Officer, Prohibition and Excise Station, Rajamahendravaram South, vide reference 7th cited reported that you have breached the bond that you entered into before this court.

The substance of the information/report received by me against you for initiation of proceedings U/s 122(1)(b) is furnished herewith.

Hence, it is deemed necessary to give you an opportunity to show a cause why you should not be ordered to pay the said penalty of Rs.50,000/- i.e., the amount of bond you bound yourself before this court for good behavior. Your attendance is necessary to conduct enquiry and you are hereby required to appear in person before this court on the 19th day of December, 2016”

4. A perusal of the record clearly reveals that the learned Executive Magistrate directed the petitioner to pay penalty of Rs.50,000/-. 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 of the procedure 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.

5. Having regard to the facts and circumstances of the case, the impugned order dated 28.11.2016 passed in M.C.No.117 of 2016, is set aside and the learned Executive Magistrate is hereby directed to pass appropriate orders in accordance with law, after affording reasonable opportunity to the petitioner.

6. The criminal revision case is, accordingly, allowed. Miscellaneous petitions, if any pending in this case, shall stand closed.

Date: 05.01.2017
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T. SUNIL CHOWDARY, J

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