

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40303 of 2017

ORDER:

In this Writ Petition, the challenge is to the notice, dated 17.07.2017, issued by the Executive Magistrate-cum-Tahsildar, Achampet Mandal, Nagarkurnool District (3rd respondent). By the said notice, the 3rd respondent forfeited a sum of Rs.1,00,000/- to the Government on the ground that the petitioner committed breach of the bond of good behaviour, by which he was bound for a period of one year i.e., till 02.07.2018, by committing an offence punishable under Section 34(e) of the T.S. Excise Act on 17.11.2017 *vide* PCOR.No.184/2017.

2. I have heard the submissions of Sri *M. Damodar Reddy*, learned counsel appearing for the petitioner, the learned Government Pleader for Prohibition and Excise appearing for the respondents 1 & 2, and of the learned Government Pleader for Revenue appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel for the petitioner submits that the issue in this writ petition is squarely covered by the orders of this Court, dated 31.12.2015, in W.P.No.42876 of 2015. In the said orders, this Court opined that mere arraignment of the petitioner in an offence cannot be taken as a conviction and thereby it cannot be said that the accused has committed a breach of the bond furnished by the petitioner for maintaining good behaviour. On that count, a notice of a similar nature, which is impugned in the said writ petition, was set aside.

4. Following the said orders, this Writ Petition is also allowed and the impugned notice, dated 17.07.2017, is set aside being unsustainable. As a consequence, the proposed detention of the petitioner owing to the failure to pay the penalty would also be rendered illegal.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 29th November, 2017

Note: Issue C.C. in two (02) days.

(B/o.)
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