

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.40516 of 2017

ORDER:

In this writ petition, filed under Article 226 of the Constitution of India, the challenge is to the order, dated 14.11.2017, passed in M.C.No.D/ 836/ 1/ 2017 of the Executive Magistrate & Tahasildar, Hasanparthy Mandal, Warangal District. The said notice reflects that the husband of the petitioner, Nanavath Raju, entered into a security bond for good behaviour for a period of one year and bound himself in default thereof, for forfeiture of a sum of Rs.1,00,000/- to the State; but, has committed a breach of bond by committing an offence punishable under Section 7A read with 8(e) of Prohibition Act; and, that for the said offence, a crime in COR no.203/ 2017 was registered by the Prohibition & Excise Station, Hanamkonda, and that therefore, he was required to pay the said penalty of Rs.1,00,000/- or show-cause within seven days, as to why he should not be adjudged for imprisonment until such bond period expires.

2. Heard Sri B.Muralidhar, learned counsel appearing for the petitioner, and the learned Government Pleader appearing for Prohibition & Excise appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel appearing for the petitioner and the learned Government Pleader are in agreement that the issue involved in this writ petition is squarely covered by the orders of this Court, dated 04.02.2016 passed in W.P.no.3413 of 2016. In the said orders, this Court opined that mere arraignment in an offence cannot be taken to be a conviction, whereby it could be said that the accused had committed a

breach of the bond furnished by him for maintaining good behaviour. Accordingly, this Court had set aside a similar notice challenged in the said writ petition as unsustainable and observed that the detention of the person on such ground, namely, failure to pay the amount of penalty would also be rendered illegal.

4. Having regard to the said reasoning, the impugned notice, dated 14.11.2017, which is unsustainable, is set aside; and, as a consequence, this Court holds that the detention of Nunavath Raju S/o Valya, owing to the failure to pay the penalty amount would also be rendered illegal.

5. Accordingly, this Writ Petition is allowed and the impugned notice, dated 14.11.2017, is set aside. Since it is represented that the husband of the petitioner is already detained in prison, the respondent authorities are directed to forthwith release the said detenu, Nunavath Raju S/o Valya, if his confinement is not required in connection with any other case.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

30th November, 2017

Note:- Issue CC by 01.12.2017
(B/o)
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