

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43237 of 2017

ORDER:

In this writ petition, the challenge is to the notice, dated 26.10.2017, issued by the Mandal Executive Magistrate, Laxmidevipally, Bhadradi Kothagudem District, the second respondent. By the said notice, the second respondent exercised powers under Section 122 (b) Cr.P.C. and ordered the petitioner to pay a penalty of Rs.50,000/- i.e., the amount of bond, by which the petitioner bound himself for his good behaviour or to show cause within seven days of receipt of the said notice as to why the petitioner should not be adjudged for imprisonment until the expiry of the bond period. The said payment/penalty was directed in the context of the petitioner being bound over for good behaviour on 10.05.2017 for a likesum.

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

3. The impugned notice reflects that after being bound over, the petitioner was allegedly involved in a case in C.O.R.No.361/2017, registered on 05.09.2017, by the Station House Officer, Kothagudem Prohibition and Excision Station, Bhadradi Kothagudem District, and thereby committed breach of the bond furnished by him.

4. 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.

5. Thus, on this count, the impugned notice, dated 26.10.2017, is unsustainable and is, therefore, set aside. As a sequel, the order demanding penalty also remains unenforceable.

6. The Writ Petition is, accordingly, allowed.

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

JUSTICE M. SEETHARAMA MURTI

Date: 19th December, 2017

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