

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.41004 of 2017

ORDER:

In this writ petition, the challenge is to the notice, dated 20.11.2017, issued by the Executive Magistrate and Tahsildar, Hasanparthy Mandal, Warangal (Urban) District, the second respondent. By the said notice, the second respondent exercised powers under Section 122 (b) Cr.P.C. and ordered one Nunavath Rajamma, W/o. Laalu, who is stated to be the mother of the petitioner, to pay a sum of Rs.1,00,000/- as penalty or to show cause within seven days as to why she should not be adjudged for imprisonment. The said payment/penalty was directed in the context of the said Nunavath Rajamma being bound over for good behaviour on 03.03.2017 for a likesum.

The impugned notice reflects that after being bound over, Nunavath Rajamma was involved allegedly in a case in COR No.231/17 in relation to an offence under Section 7(A) read with Section 8(e) of the Andhra Pradesh Prohibition Act, 1995. Owing to her alleged involvement in the said offence, the second respondent concluded that she committed breach of the bond furnished by her.

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 accused had committed a breach of the bond furnished by her for maintaining good behaviour.

Thus, on this count, the impugned notice dated 20.11.2017 is unsustainable and is therefore set aside. As a consequence, the detention of Nunavath Rajamma owing to the failure to pay the amount of penalty would be rendered illegal.

It is represented that the said Nunavath Rajamma is already confined in prison.

On the above analysis, the writ petition is allowed and the respondents are directed to forthwith set Nunavath Rajamma at liberty by releasing her from prison, if her presence is not required in any other case.

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

M. SEETHARAMA MURTI, J

Date: 06.12.2017

Note: Issue CC today
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