

HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.41075 of 2017

ORDER:

In this writ petition, the challenge is to the notice, dated 15.11.2017, issued by the Mandal Executive Magistrate, Kothagudem, Bhadradri 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 sum of Rs.1,00,000/- as penalty or to show cause within fifteen days as to why he should not be adjudged for imprisonment. The said payment/ penalty was directed in the context of the petitioner being bound over for good behaviour on 02.05.2017 for a likesum.

The impugned notice reflects that after the petitioner entered into a bond on 02.05.2017 for good behaviour for a period of one year, he allegedly committed an offence as per the report dated 07.05.2017 of the Station House Officer, Prohibition & Excise Station, Kothagudem, and thereby committed breach of the bond.

From the impugned notice, it is discernable that owing to the alleged involvement of the petitioner in the offence stated in the said report, the second respondent concluded that the petitioner committed breach of the bond furnished by him.

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.

Thus, on this count, the impugned notice dated 15.11.2017 is unsustainable and is therefore set aside.

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.

M. SEETHARAMA MURTI, J

Date: 06.12.2017
Note: Issue CC today
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