

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.166 of 2018

ORDER:

Petitioner/accused challenges the notice/order dated 31.8.2017 in Proceedings MC.No.B/316/2017 passed by the learned Executive Magistrate at Thorrur, Mahabubabad District forfeiting the bond earlier executed by him for a sum of Rs.1,00,000/- on the ground that as per the material placed before him, the petitioner has committed breach of bond by involving in an offence under Section 7(A) r/w 8(e) of Prohibition Act in Crime No.COR.No.131/2017 dt.11.8.2017 of Prohibition & Excise Station, Thorrur.

2. Heard Sri B.Muralidhar, learned counsel appearing for petitioner/accused and learned Additional Public Prosecutor.

3. The main grievance of learned counsel for petitioner is that the said notice was issued by the learned Executive Magistrate ordering forfeiture of the bond without conducting due enquiry contemplated under Sections 107 to 122 Cr.P.C and therefore, manifestly, the order is erroneous and devoid of law.

4. I find force in his submission. A perusal of the relevant provisions of Cr.P.C would manifest that before forfeiting the bond offered by the party, the duty is cast on the Executive Magistrate to hold enquiry. *Ex-facie* no enquiry was conducted as contemplated under law before issuing the impugned order. Therefore, the order suffers vice of non-following the procedure. Learned counsel for petitioner relied upon the decision dated 2.6.2017 in CrI.R.C.No.1404 of 2017 passed by this Court holding in similar circumstances that the order passed by the Executive Magistrate was not maintainable under law and directed the Executive Magistrate to pass

appropriate orders strictly in accordance with the procedure established by law after hearing the petitioner/accused therein.

5. The said order squarely applies to the case on hand, as in the instant case also learned Executive Magistrate has not conducted any enquiry before ordering forfeiture of bond. Therefore, Criminal Revision Case is allowed and the impugned order dated 31.8.2017 passed in M.C.No.B/316/2017 is set aside with a direction to the Executive Magistrate, Thorrur, Mahabubabad District to pass appropriate orders by following due process of law after hearing the petitioner.

6. It is informed to this Court that consequent to the forfeiture of the bond, the petitioner was remanded to the judicial custody on 08.01.2018 and therefore he shall be set at free on his executing a personal bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for like sum to the satisfaction of the Executive Court, at Thorrur, Mahabubabad District.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 29.01.2018

Note: Issue C.C today.

(b/o)

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