

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.5998 OF 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise (TG).

2. Petitioner herein is the son of one Smt Gurrapu Mangamma, W/o.Narsaiah. The Executive Magistrate – cum - Tahsildar, Mattampally, Suryapet District issued a notice of forfeiture of bond for good behaviour *vide* M.C.No.B/4304/2017, dated 28.12.2017, requiring her to pay penalty of Rs.1,00,000/- or to show cause as to why she should not be adjudged for imprisonment till the bond period expires. Assailing the said notice, dated 28.12.2017, the mother of the petitioner herein i.e., Gurrapu Mangamma filed CrI.R.C.No.99 of 2018 before this Court. This Court allowed the said revision by way of an order, dated 23.01.2018. The operative portion of the said order reads as under:

“The said order squarely applies to the instant 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 28.12.2017 in M.C.No.B/4304 of 2017 is set aside with a direction to the Executive Magistrate, Gandipet, Ranga Reddy District to pass appropriate orders by following the due process of law after hearing the petitioner.”

3. According to the learned counsel for the petitioner, the above said order passed by this Court in the Criminal Revision Case was communicated to the office of the Tahsildar, Mattampally on the same day. The Executive Magistrate - cum - Tahsildar, Mattampally passed an order on 24.01.2018 in

M.C.No.B/4304/2017 under Section 122 of the Code of Criminal Procedure in Form No.16 directing detention of the mother of the petitioner herein till the expiry of the bond period.

4. In the present writ petition, challenge is to the validity and the legal sustainability of the said order passed by the Executive Magistrate – cum - Tahsildar, Mattampally, respondent No.3 herein.

5. According to the learned counsel for the petitioner, the impugned order is highly illegal, arbitrary and unreasonable and is violative of Articles 14 and 21 of the Constitution of India besides being contrary to the order, dated 23.01.2018, of this Court in CrI.R.C.No.99 of 2018.

6. There is absolutely no dispute that this Court, in CrI.R.C.No.99 of 2018, had set aside the proceedings of the Executive Magistrate, Mattampally, Suryapet District in M.C.No.B/4304/2017, dated 28.12.2017. Obviously, the present impugned order came to be passed by the Executive Magistrate as a consequence of the notice, dated 28.12.2017, which was impugned in CrI.R.C.No.99 of 2018. Since this Court had set aside the said notice, dated 28.12.2017, the order impugned in the present writ petition passed as a consequence of the notice, dated 28.12.2017, cannot be sustained in the eye of law.

7. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order, dated 24.01.2018, in M.C.No.B/4304/2017 of the Executive Magistrate – cum Tahsildar, Mattampally, Suryapet District. Consequently, the mother of the petitioner –

Gurrapu Mangamma shall be released. However, it is open for the respondent authorities to proceed in accordance with the orders of this Court in CrI.R.C.No.99 of 2018. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 14.03.2018

Note:-

Furnish C.C. today.

B/O
AMD



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AMD