

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.45025 of 2018

ORDER:

In this writ petition, the challenge is to the notice, dated 04.12.2018 in M.C.No.12426 of 2018, issued by the Executive Magistrate, Palakaveedu Mandal, Suryapet 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.1,00,000/- i.e., the amount of bond, by which the petitioner bound himself for his good behaviour or to show cause within fifteen 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 02.11.2018 for a likesum.

2. I have heard the submissions of Sri V. Brahmaiah Chowdary, learned counsel appearing for the petitioner, learned Government Pleader for Prohibition and Excise appearing for respondents 1 and 2, and learned Government Pleader for Home appearing for respondent No.3. 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 Cr.No.176 of 2018 of Palakaveedu Police Station, 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 04.12.2018, is unsustainable and is, therefore, set aside. As a sequel, the order demanding penalty also remains unenforceable.

6. The Writ Petition is, accordingly, allowed. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

CHALLA KODANDA RAM, J

12th December, 2018

sj

