

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3401 of 2017

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.'), challenging the order dated 04.09.2017 passed in Mc.No.B/1696/2016 by the Special Executive Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned Special Assistant Public Prosecutor for the State of Telangana.

3. On 04.09.2017, the Special Executive Magistrate, Hyderabad District, passed the following order:

“Whereas on 27.09.2016 you become Respondent by a bond you would be of good behaviour for a period of 1 year and bound yourself in default thereof to forfeit the sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) to the Government and whereas if you have again committed the offence of sale of Ganja is Narcotic in cities and his actives are likely to cause danger to public health and being at large in hazardous to the community you become such respondent, whereby your security bond has become forfeited.

You are therefore hereby required to appear with your explanation for the above before me within (07) working days or show cause why legal action should not be enforced against you.”

4. A perusal of the record clearly reveals that the learned Special Executive Magistrate directed the petitioner to pay penalty of Rs.1,50,000/-. It is settled law that no quasi or judicial order can be passed without affording reasonable opportunity to the affected party. Passing of any order without giving reasonable opportunity to the

affected party would amount to violation of principles of natural justice. Admittedly, in the instant case, the order is being passed by the Special Executive Magistrate, without giving any opportunity to the petitioner leave apart non-following of the procedure contemplated under the Code of Criminal Procedure. If the order is allowed to stand, it would amount to miscarriage of justice. If there is any illegality or irregularity or impropriety in the orders passed by the lower authority, this court can set aside the same by exercising the revisional jurisdiction under Section 397 Cr.P.C.

5. Having regard to the facts and circumstances of the case, the impugned order dated 04.09.2017 passed in Mc.No.B/1696/2016, is set aside and the learned Special Executive Magistrate is hereby directed to pass appropriate orders in accordance with law, after affording reasonable opportunity to the petitioner.

6. The Criminal Revision Case is, accordingly, allowed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 03.01.2018

Note:- CC by 4.1.2018.

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