

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.7481 OF 2019

DATED :09.04.2019

Between :

Mamidi Mogili S/o.Mamidi Ilaiah,
Aged about 36 yrs, Occu : Agriculture,
R/o.H.No.2-38, Porandla Village,
Thimmapur Mandal, Karimnagar District

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Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad & others.

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Respondents



This court made the following :

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ORDER :

The challenge in this writ petition is to the notice dated 29.03.2019 issued by the Tahsildar/Executive Magistrate, Thimmapur Mandal, Karimnagar 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/-. This payment was directed in the context of petitioner being bound over for good behaviour on 09.10.2018 for a like sum.

2. The impugned notice reflects that after being bound over, the petitioner was implicated in Crime No.111 of 2019 in relation to an offence under Section 34 (e) of A.P.Excise Act, 1968. Owing to the alleged involvement of the petitioner in the said offence, the second respondent concluded that the petitioner committed breach of the bond furnished by him under Section 110 Cr.P.C.

3. Having received instructions in the matter, the learned Assistant Government Pleader for Excise conceded that no enquiry was conducted under Section 117 Cr.P.C. before exercise of powers under Section 122 Cr.P.C. That apart, 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.

4. Thus, on counts more than one, the impugned notice dated 29.03.2019 is unsustainable and is therefore set aside.

5. The Writ Petition is allowed. Pending miscellaneous petitions, if any, shall stand closed.

9th April, 2019
Rds

P.NAVEEN RAO,J

