

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE NO.728 OF 2019

ORDER:

The petitioner/accused challenges the notice dated 25.06.2019 issued in Mc.No.B/1979/2018 by the Special Executive Magistrate, Hyderabad 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.

Heard Mr. Satish Kumar Varma, learned counsel for the petitioner and learned Additional Public Prosecutor.

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

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 the law before issuing the impugned notice. Therefore, the notice suffers vice of non-following the procedure. Learned counsel for the petitioner relied upon the decision dated 02.06.2017 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.

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 notice dated 25.06.2019 issued in Mc.No.B/1979/2018 by the Special Executive Magistrate, Hyderabad District, forfeiting the bond earlier executed by him for a sum of Rs.1,00,000/-, is set aside with a direction to the Special Executive Magistrate, Hyderabad District, to pass appropriate orders by following due process of law after hearing the petitioner.

Miscellaneous applications, if any, pending shall stand closed.

(G. SRI DEVI, J)

10th July 2019
RRB