

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL REVISION CASE No.459 of 2022

ORDER :

This Criminal Revision Case is filed challenging the order that is rendered by the Mandal Executive Magistrate, Garla, in M.C.No.195 of 2022, dated 12.05.2022.

2. Heard the submission of learned counsel for the petitioner as well as the Assistant Public Prosecutor appearing for respondent No.1.

3. Learned counsel for the petitioner submits that the Mandal Executive Magistrate, Garla, on the ground that the petitioner entered into a bond for keeping good behaviour and thereafter failed to oblige the conditions laid down therein, has ordered to arrest the petitioner. Learned counsel also states that the petitioner was arrested and was remanded to judicial custody and at present the petitioner is in judicial custody. Learned counsel for the petitioner further submits that there was an allegation that

the petitioner has committed offence of indulging in the trade of illicit distilled liquor and, indeed, the petitioner is an innocent.

4. A perusal of the material available on record does not disclose the presence of conclusive proof with regard to the breach of the bond that was given for keeping good behaviour. Mere allegation that the petitioner committed certain offences does not amount to proof. Admittedly, a procedure is prescribed by the Code of Criminal Procedure by which the guilt or otherwise of the Accused would have to be proved before the Court of law. Making an allegation by the Prosecuting Agency that certain person committed certain offence does not mean that a person has actually committed offence. A perusal of the notice issued under Section 122(1)(b) for forfeiture of bond does not disclose the reasons exhibited by the Mandal Executive Magistrate, Garla, by which he came to the conclusion that the petitioner has breached the bond of keeping good behaviour.

5. Further, the Notice dated 12.05.2022 and the even dated enquiry proceedings make it abundantly clear that the Tahsildar and Mandal Executive Magistrate, Garla, did not even notice the fact that the person on whom accusation made is a woman and mechanically orders were passed. This is evident by the wording in those proceedings, more particularly where it is repeatedly addressed as “he”, though the petitioner is a woman.

6. That apart, ordering arrest of a person and remanding to judicial custody is a process where the person, who issues such orders has to be more cautious and vigilant and it is required that such person, before passing those orders, has to bear in mind that the life and liberty of an individual against whom those orders are passed would be curtailed.

7. Thus, having regard to the fact that the petitioner was taken into judicial custody without there being any conclusive proof of committing offence, this Court considers it desirable to order for release of the petitioner.

8. Resultantly, the petitioner is ordered to be released on executing a personal bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum each to the satisfaction of the Tahsildar and Mandal Executive Magistrate, Garla. The impugned order dated 12.05.2022 is set aside. However, liberty is granted to the Tahsildar and Mandal Executive Magistrate, Garla, to initiate fresh proceedings in case such requirement exists.

9. With the above observations, this Criminal Revision Case is disposed of.

10. Miscellaneous applications pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

13.07.2022.
Msr

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