

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

W.P.No.17245 of 2017

ORDER :

The challenge in this writ petition is to the notice dated 08.05.2017 issued by the Executive Magistrate and Tahsildar, Nellikudur Mandal – 2nd respondent herein. By the said notice, the 2nd respondent exercised powers under the provisions of Section 122 of Cr.P.C. and ordered the father of the petitioner to pay a sum of Rs.1,00,000/-. This payment was directed in the context of the father of the petitioner being bound over for good behaviour on 08.05.2017 for a like sum.

The impugned notice reflects that after being bound over, the father of the petitioner was implicated in COR No.100/2017 in relation to an offence under Section 7(A) read with Section 8(e) of the Prohibition Act, 1995. Owing to the alleged involvement of the father of the petitioner in the said offence, the third respondent concluded that the accused committed breach of the bond furnished by him under Section 110 Cr.P.C.

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 father of the petitioner had committed a breach of the bond furnished by him for maintaining good behaviour.

Thus, on this count, the impugned notice dated 08.05.2017 is unsustainable and is therefore set aside. As a consequence, the detention of Sri Islavath Rangya owing to the failure to pay the amount of penalty would also be rendered illegal. The respondent authorities shall forthwith release the detenu. However, the learned Assistant Government Pleader for Prohibition and Excise submits that the proceedings have to be continued. In view of the same, this order will not preclude the authorities from proceeding further in the matter.

Accordingly, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

25.05.2017.
Msr/nvl

A. RAJASHEKER REDDY, J

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Msr