
(2022) 09 TEL CK 0028

High Court For The State Of Telangana:: At Hyderabad

Case No: Writ Petition No. 15809 Of 2016

Malyala Sujatha

APPELLANT

Vs

Tate Of Telangana

RESPONDENT

Date of Decision: Sept. 6, 2022

Acts Referred:

- Andhra Pradesh Prohibition Acts, 1995 - Section 7A, 8(e)
- Code Of Criminal Procedure, 1973 - Section 110

Hon'ble Judges: T. Vinod Kumar, J

Bench: Single Bench

Advocate: Babuji Tenneti

Final Decision: Allowed

Judgement

1. This Writ Petition is filed for issuance of a Writ of Mandamus to declare the action of the 2nd respondent in issuing the warrant in M.C.No.134 of

2016 dt.22.04.2016 directing the 3rd respondent to take the husband of the petitioner, namely Malyala Sadanandam, into custody, alleging breach of

conditions of bond executed on 05.12.2015 and non-payment of security amount of Rs.1,00,000/- and to send him to prison until such bond period

expires, as highly arbitrary, bad and illegal and with consequential relief.

2. Heard learned counsel for the petitioner and learned Government Pleaders appearing for the respondents.

3. This Court, by interim order, dt.29.04.2016, passed in W.P.M.P.No.19541 of 2016, directed release of the petitioner's husband, pending disposal

of the writ petition. Thus, the husband of the petitioner, who is said to have committed breach of bond, is a free citizen today.

4. Insofar as challenge to the impugned proceeding is concerned, learned counsel for the petitioner as well as learned Government Pleader appearing

for the respondents would submit that the issue is no longer res integra, in view of the order of this Court in W.P.No.9363 of 2016, dt.21.03.2016,

wherein, this Court had held as under:

“The impugned notice reflects that after being bound over, the said Mateti Raju was implicated in COR No.57/2016 in relation to an offence under

Section 7(A) read with Section 8(e) of the A.P. Prohibition Act, 1995. Owing to his alleged involvement in the said offence, the second respondent

concluded that he 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 accused had

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

Thus, on this count, the impugned notice dated 27.02.2016 is unsustainable and is therefore set aside. As a consequence, the detention of Mateti Raju

owing to the failure to pay the amount of penalty would also be rendered illegal.

5. By the above said order, this Court observed that the invocation of bond without issuing a notice or without mentioning the alleged breach

committed by the executant of the bond cannot be sustained and that the respondent authorities cannot seek to enforce such bond.

6. In the facts of the present case also, the respondents did not put the husband of the petitioner, who is the executant of the bond, of which, the

alleged breach committed by him warranting action, on notice. On the other hand, the 2nd respondent has straight away proceeded to issue the

impugned proceeding along with Form 16, whereby the husband of the petitioner was detained and sent for judicial custody.

7. In view of the order of this Court passed in W.P.No.9363 of 2016 dt.21.03.2016, holding that the notice of breach of bond is required to be given,

and for the reasons alike as were stated therein, the impugned proceeding issued by the 2nd respondent cannot be sustained and the same is liable to

be set aside.

8. Accordingly, the Writ Petition is allowed and the impugned warrant in M.C.No.134 of 2016 dt.22.04.2016, issued by the 2nd respondent, is set aside.

9. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No order as to costs.