

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27201 of 2013

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a writ or order or direction in the nature of writ of Mandamus declaring the action of the respondents not closing the Rowdy Sheet No. 643/2006 against the petitioner and thereby frequently harassing by calling to 1st respondent police station without any reason when there is no case is pending against him is illegal, arbitrary and Article 21 of Constitution of India and consequently direct the respondents to close the Rowdy Sheet No. 643/2006 against the petitioner.”

2. Heard Sri Naram Nageswara Rao, learned counsel for the petitioner and the learned Government Pleader for Home for the respondents herein.

3. According to the petitioner, he is studying post-graduation in M.S.W. Course and earlier on 16.05.2006 on the complaint of one Shaik Mastan, son of Rahatunia, a crime was registered against the petitioner and five others. alleging commission of offences under Sections 120-B, 302 and 149 read with 34 I.P.C, which resulted in opening of rowdy sheet bearing No.643/2006 against the petitioner.

It is further pleaded in the writ affidavit that in the said crime, police filed a charge-sheet vide SC.No.329/2007, on the file of the Court of the IV Additional Sessions Judge at Ongole, Prakasam, wherein the petitioner was shown as accused No.6. It is further pleaded that the said Court by virtue of the judgment dated 20.03.2009 acquitted the petitioner herein of the charges. It is the grievance of the petitioner herein that despite the said acquittal as long back as on 23.02.2009 and despite a number of representations made by the petitioner herein, the rowdy sheet opened against the petitioner herein as a consequence of his involvement in the above mentioned crime is being continued by the respondents herein. It is further pleaded that in view of the said action, petitioner herein is unable to concentrate on the studies and it is also the case of the petitioner that there are no cases pending against him

and he is a law abiding citizen and hails from a respectful family.

4. The learned Government Pleader has placed on record the written instructions furnished by the Sub-Inspector of Police, Kandukur Town Police Station, Prakasam District, wherein it is stated that SC.No.329/2007 ended as acquittal on 20.03.2008 and at present no fresh cases are reported nor registered against the petitioner herein. It is further stated in the said instructions that in view of involvement of the petitioner herein in Cr.No.73/2006 which ended in acquittal in SC.No.329/2007, it has become incumbent on the part of the respondent authorities to curb and curtail the unlawful activities of the petitioner herein and not to repeat any other offences. It is further stated that the petitioner herein is young and energetic and may repeat the offences and hence to watch his activities, the rowdy sheet is being maintained. It is also stated that except opening the rowdy sheet, the respondent police have never harassed, threatened and interfered with the life and liberty of the petitioner herein by calling him to the police station.

5. During the course of hearing, it is submitted by the learned counsel for the petitioner that the case on hand is squarely covered by the judgment of this Court in **BEERJEPALLY VENKATESH BABU**

V. STATE OF A.P. and paragraph 3 of the said judgment reads as under:

“3. The crucial expressions used in Standing Order 601 indicate that the person must habitually commit or attempt to commit or abets the commission of offences involving breach of peace, disturbance to public order and security. In other words, one must be a habitual offender or keeps abetting commission of offences, which is a plural of the expression 'offence'. Therefore, if the petitioner has involved himself in a single crime, he cannot be described as a 'habitual offender'. For one to become a habitual offender, propensity of repetition of the same conduct should be witnessed. Otherwise, involvement in a single crime cannot be described as habitual involvement in offences. Therefore, in my opinion, the first criteria for the petitioner to be described as a 'rowdy' as per Standing Order 601 is not satisfied. Similarly, even assuming

that the person is intimidating by threats or use of physical violence or other unlawful means for parting with movable or immovable properties, the contents of paragraph 5 of the counter-affidavit do not lend support. When once it is disclosed that no other fresh case is reported or registered against the petitioner, it certainly indicates that the petitioner is not a habitual offender, but he has only involved in a single and solitary crime. If the petitioner gets convicted for that offence, it would be a different matter, inasmuch as the Court dealing with the cases will appropriately sentence him. Since no other case is reported against the petitioner, I consider that the continuance of the rowdy sheet against him any further is not justified.”

6. In the instant case also except Cr.No.73/2006, which ended in acquittal in SC.No.329 of 2007 as long back as on 20.03.2009, no other crime is pending against the petitioner herein. In view of the same, the principle laid down in the above referred judgment is squarely applicable to the present writ petition.

7. For the aforesaid reasons, writ petition is disposed of, declaring the action of the respondent authorities in opening the rowdy sheet against the petitioner and continuing the same as unjustified. As a sequel, Miscellaneous Petitions, if any, shall stand disposed of. No order as to costs.

A.V.SESHA SAI, J

Date: 12.08.2015
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Dated 12th August, 2015

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THE HON’BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27201 of 2013

Date: 12th August, 2015

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Between:

Tetaparthi Ashok @ Ashok Kumar,
s/o Krupanandam, Aged about 28 years,

Janardhana Colony, Durgammagudi Street,
Kandukur Town, Prakasam District.

... Petitioner

and

Inspector of Police, Kandukur,
Prakasam District and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 12th August, 2015

SUBMITTED FOR APPROVAL: 12th August, 2015

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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| 1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
Fair copy of the judgment? | Yes/No |