

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.5855 of 2015

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ORDER:

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

“To issue a Writ of Mandamus or another appropriate writ, or order declaring the action of the respondents herein opening "Rowdy Sheet" in February 2015 on the file of 5th and 6th respondent as illegal, unjust, arbitrary and violative of article 14 & 21 of the constitution of India and in particular A.P. Police standing orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Smt Naseemara, learned counsel for the petitioner and the learned Government Pleader for Home for the respondents apart from perusing the material available before the Court.

3. Petitioner herein states that he hails from a middle-class respectable and religious family and he does business in old plastic and had three children. It is further stated that Cr.No.192/2014 was registered against the petitioner herein by the fifth respondent under Sections 147, 148, 427, 307 r/w. 34 I.P.C and Section 25 (1-B) of the Arms Act, 1959 and the learned Sessions Judge enlarged the petitioner on bail on 19.02.2014 after furnishing sureties. It is further pleaded that the said crime is registered against the petitioner herein basing on the false allegations. It is also stated in the writ affidavit that there is no criminal record against the petitioner herein in any police station apart from the above mentioned crime.

4. While reiterating the contents of the writ affidavit, it is submitted by the learned counsel for the petitioner that the impugned action of reopening a rowdy sheet against the petitioner herein is not in accordance with law and basing on one crime registered against the

petitioner herein, the rowdy sheet cannot be opened by the respondent authorities and the same is in contravention of Order 601 of the Police Standing Orders. It is further submitted that the petitioner herein is not a habitual offender.

5. The Inspector of Police, Kalapathar Police Station, Hyderabad, has filed counter affidavit stating, that one Mr. Shaik Oamer lodged a complaint with the police and the police registered Cr.No.192/2014 under Sections 147, 148, 427, 307 r/w. 34 I.P.C and Section 25 (1-B) of the Arms Act, 1959 on the file of Kalapathar Police Station. It is further stated in the counter affidavit that the said case is pending investigation on the file of Kalapathar Police Station. It is also stated in the counter affidavit that due to involvement of the petitioner in the said criminal case, the residents of the locality complained that their lives are in danger in the hands of the petitioner. It is also stated that the enquiry revealed that the petitioner is maintaining a gang with the unsocial elements and that the petitioner is threatening the witnesses and that by keeping in view the above facts and to curb and curtail the unlawful activities, after obtaining permission from the Assistant Commissioner of Police, Charminar Division, opened the rowdy sheet vide Proceedings No.354/ACP-CMNR/2015 dated 23.01.2015. It is also stated in the counter affidavit that the petitioner is residing in the limits of Bahadurpura Police Station, Hyderabad and on the point of jurisdiction, later it was transferred to Mailardevpally Police Station of Cyberabad Commissionates.

6. During the course of hearing, the learned counsel submitted that the case on hand is squarely covered by the judgment of this Court in **BEERJEPALLY VENKATSH BABU v. STATE OF A.P.**^[1] and a copy of the same is placed on record. Paragraph No.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."

7. In the instant case also except Cr.No.192/2014, no other crime is pending against the petitioner herein. In view of the same, the principle laid down in the above referred judgment is also squarely applicable to the present case.

8. For the aforesaid reasons, the writ petition is disposed of, declaring the action of the respondents in opening a rowdy sheet and continuing the same against the petitioner is not justified. As a sequel, Miscellaneous Petitions if any, shall stand disposed of. No order as to costs.

A.V.SESHA SAI,J

Date: 15.06.2015
grk

WRIT PETITION No.5855 of 2015

Dated 15TH June, 2015

grk

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.5855 of 2015

Date:15.06.2015

Between:

Syed Abdul Sajid S/o Syed Abdul Rasheed
Aged: 30 years, Occupation: Plastic Business
R/o H.;No.8-18-104, Rasheed Colony,
Hassan Nagar, Hyderabad.

... Petitioner

and

The State of Telangana represented by
Its Principal Secretary, Home Department,
Secretariat, Hyderabad and five others.

... Respondents