

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

W.P.Nos.12622 and 13286 of 2010

COMMON ORDER:

Since the petitioners in these two writ petitions share a common grievance, this Court deems it appropriate to dispose of these two writ petitions by way of this common order.

2. The grievance of the petitioners is opening and continuation of Rowdy Sheets against them. As evident from the material available on record, the very basis for the said action is the registration of five crimes against the petitioners and the particulars of the same are as follows:

“1. F.I.R.No.1206/2009, on the file of Banjara Hills Police Station registered for the offence under Section 307 of I.P.C on the complaint of one Mr.Niasar Ahmed.

2. F.I.R.No.369/2006, on the file of Panjagutta Police Station for the alleged offences under Sections 302, 201, 212, 419, 447, 109 I.P.C r/w 34 I.P.C and Sections 25 (1B) (a), 25 (1B) (h) and 25 (1B) (b) of Arms Act of 1959 on the complaint of Smt. Reena Sadana.

3. F.I.R.No.5/2010, on the file of Saifabad Police Station, Hyderabad for the alleged offences under Sections 307 and 34 I.P.C on the complaint of one Mr.Faiq Ahmed.

4. F.I.R.No.17/2010, on the file of Narayanaguda Police Station, Hyderabad for the offences under Sections 506, 507, 387 and 34 I.P.C on the complaint of one Mr.Zafar Javeed.

5. F.I.R.No.23/2010, on the file of Chilkalguda Police Station for the alleged offences under Sections 385, 506 and 507 I.P.C on the complaint of Mir Wajid Ali Kamil.”

3. This Court, while ordering *Rule Nisi* passed interim orders on 26.07.2010 and the said orders reads as under:

“This is an application to suspend the operation of rowdy sheet dated: 22-02-2010.

The petitioner claims to belong to a cultured and elite society and that taking advantage of the civil disputes between him on the one side and another branch of claimants to the property by name Sulthan-UI-Uloom Educational Society, criminal cases are foisted against him and his father, who is the petitioner in Writ Petition

No. 13286 of 2010.

In the counter affidavit filed by the Deputy Commissioner of Police, West Zone, Hyderabad, it is stated that six cases are pending against the petitioner and that unless a close watch is maintained against the unlawful activities of the petitioner, there is every chance of the petitioner committing further unlawful activities.

In my prima facie opinion, mere pendency of criminal cases would not ipso facto warrant opening of rowdy sheets. There is no allegation that in any of the criminal cases, the petitioner had caused breach of public peace or that he has been convicted so far. It is also not the pleaded case of the respondents that the petitioner has been harassing or causing harm to the general public. Therefore, prima facie, I do not find justification in operating rowdy sheet against the petitioner. Indubitably, opening of a rowdy sheet casts stigma on a person and brings down his dignity and respect in the society. Inasmuch as so far the petitioner has not been convicted in any one of the cases and in the light of the averments made by the petitioner that he is implicated as a sequel to the civil disputes, I find elements of balance of convenience and irreparable injury in his favour to suspend his rowdy sheet. Ordered accordingly. However, the petitioner may be asked to be bound over by following the provisions of the Code of Criminal Procedure, 1973, pending the criminal cases.

Subject to the above, WPMP is disposed of.”

4. Resisting the averments in the affidavits filed in support of the writ petitions and in the direction of justifying the impugned action, counter affidavits have been filed in these two writ petitions by the Deputy Commissioner of Police, West Zone, Hyderabad.

5. Heard Sri Nageshwara Rao Pappu, learned counsel for the petitioners and the learned Government Pleader for Home for the respondents.

6. According to the learned counsel for the petitioners, the very registration and continuation of the Rowdy Sheets against the petitioners is highly illegal, arbitrary and unreasonable and violative of Articles 14 and 21 of the Constitution of India besides being opposed to the very spirit and object of the Police Standing Orders. It is further submitted by the learned counsel that except registration of crimes, there is no conviction against the

petitioners so far in any one of the criminal cases and the registration of the crimes is an outcome of the land disputes and subsequent to 2010 no crimes have been registered against the petitioners herein. In support of his submissions and contentions, the learned counsel for the petitioners placed reliance on the Judgment of this Court in ***M.MALLA REDDY v. STATE OF TELANGANA AND OTHERS***^[1]

7. Repulsing vehemently the submissions of the learned counsel for the petitioners, it is contended by the learned Government Pleader for Home that in the facts and circumstances of the case, opening and continuation of Rowdy Sheets against the petitioners is perfectly justified and the said action is strictly in accordance with the Police Standing Order 601. The learned Government Pleader further seeks to justify the impugned action by contending that keeping in view the public interest and the public peace, Rowdy Sheets have been opened against the petitioners.

8. In the above background, now the issue which this Court is called upon to answer in these two writ petitions is_ “Whether the opening and continuation of the Rowdy Sheets against the petitioners is in conformity with the A.P. Police Standing Orders and whether the said action is sustainable and tenable?”

9. The provision of law which is germane and relevant for the purpose of adjudication of the present issue is A.P. Police Standing Order 601, which reads as infra:

601. The following persons may be classified as rowdies and Rowdy Sheets (from 80) may be opened for them under the orders of the SP/DCP and ACP/SDPO.

A. Persons who habitually commit, attempt to commit or abet the commission of, offence involving a breach of the peace, disturbance to public order and security.

B. Persons bound over under Sections [106](#), [107](#), [108\(1\)\(i\)](#) and [110\(e\)](#) and (g) of Cr.P.C.

c. Persons who have been convicted more than once in two consecutive years under sections [59](#) and [70](#) of the Hyderabad City Police Act or under Section 3, Clause 12, of the A.P. Towns

Nuisances Act.

D. Persons who habitually tease woman and girls and pass indecent remarks.

E. Rowdy Sheets for the rowdies residing in one Police Station area but found frequenting the other PSs area, can be maintained at all such Police Stations.

F. Persons who intimidate by threats or use of physical violence or other unlawful means to part with movable or immovable properties or in the habit of collecting money by extortion from shopkeepers, traders and other residents.

G. Persons who incite and instigate communal/caste or political riots.

H. Persons detained under the AP Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1966 for a period of 6 months or more.

I. Persons who are convicted for offences under the Representatives of the Peoples Act for rigging and carrying away ballot papers, Boxes and other polling material.”

10. In this context, it may be appropriate to refer to the Judgment of this Court in **M.MALLA REDDY** (*supra*), cited by the learned counsel for the petitioners. At paragraph 10 of the said Judgment, this Court held as under:

“10. Rowdy sheet cannot be opened in a mechanical, routine and cavalier manner and great care, caution and circumspection are required to be observed for opening of the rowdy sheet as the same undoubtedly touches the personal liberty of the citizen and has a considerable impact on the fundamental rights as enshrined under Chapter III of the Constitution of India. The State and its instrumentalities are the custodians of the statutory and constitutional rights of the citizens. Parliament and the State legislatures make the laws, keeping in view the betterment and welfare of the people and the authorities functioning under the same laws have the holy and sacred obligation to discharge their duties keeping in view the object and intention behind the said laws made by the legislature. Any deviation and breach of the same would render the actions invalid and void. The actions of the authorities should necessarily be in the direction of creating and strengthening the confidence of the people in the system, lest anarchy prevails, which would never be in the interest of the democratic system which is guided by the rule of law. Every action of the authorities should be inconsonance with the basic

structure of the Constitution of India which is the dream of the founding fathers of our *Magna Carta*.”

11 . A reading of the Police Standing Order 601 reveals vividly that the persons who habitually commit, attempt to commit or abet the commission of offence involving, breach of peace, disturbance to public order and security can be categorized as Rowdy. In the instant case, the respondents herein attempted to justify their action in the light of the said provision. The allegations contained in the complaints which led to the registration of the above mentioned crimes against the petitioners herein, in the considered opinion of this Court, do not attract any one of the contingencies as stipulated under the Police Standing Order 601. It is not the case of the respondents at all, that the alleged activities of the petitioners are affecting the public peace and causing disturbance to the public order and security. It is also an admitted reality that there is no conviction so far in any one of the criminal cases registered against the petitioners, which is a condition precedent under Clause ‘C’ of Police Standing Order 601. In the absence of existence of any one of the conditions as stipulated in Police Standing Order 601, this Court does not find any justification on the part of the Police either to open or to continue the Rowdy Sheets against the petitioners. Even according to the respondents, pursuant to the interim orders passed by this Court in the year 2010, the Rowdy Sheets against the petitioners have been discontinued and no new crimes have been registered against the petitioners herein so far till date. In fact, mere registration of crimes does not automatically empower or authorise the police to open a Rowdy Sheet unless the situation in a given case attracts the necessary ingredients of Police Standing Order 601. There is also no material available to the respondents herein to brand the petitioners as habitual offenders. The reasons shown in the counter affidavits that in the event of closing the Rowdy Sheets there is every chance of the petitioners committing unlawful activities and only to prevent the same and in the public interest the Rowdy Sheets are being continued, by any stretch of imagination cannot be considered as valid reasons nor the same can be the basis for denying the constitutional right as enshrined under Article 21 of the Constitution of India. The above narration and the

12. For the aforesaid reasons, writ petitions are allowed, quashing the Rowdy Sheets opened against the petitioners herein. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

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

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W.P.Nos.12622 and 13286 of 2010

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Dated 11th July, 2016

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[\[1\]](#) 2016 (1) ALD (CrI.) 591