

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

WRIT PETITION No.38951 of 2012

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the respondents in opening rowdy sheet No.87 of 2008 against the petitioner on the file of the II Town Police Station, Kadapa, YSR District.

Heard, Sri Ambati Srikanth Reddy, learned counsel for the petitioner and learned Government Pleader for Home for respondents.

According to the petitioner, he is a permanent respondent of Kadapa Town and he belongs to business community and he went to Saudi Arabia in the year 1990 and worked as Goldsmith in a company. It is further stated that after working for a couple of years he came back and settled down in Kadapa by marrying a girl in their community in Kadapa. It is further averred that after coming back to India he has chosen the profession of Goldsmith for eking out his livelihood and is blessed with three (3) children and leading happy life. It is also the case of the petitioner herein that in the year 2008 there was a small galata at the marriage

function which ultimately lead to filing of criminal cases against both the groups and subsequently the said cases were withdrawn as elders from both sides interfered and settled the disputes.

Basing on the said cases, the respondents herein opened rowdy sheet bearing No.87 of 2008 against the petitioner on the file of the 3rd respondent Police Station. It is also the case of the petitioner herein that after the incident a charge sheet was filed and the cases ended in compromise and despite number of representations the 3rd respondent is not closing the rowdy sheet opened against the petitioner. It is also stated in the writ affidavit that after the above said incident no other incident took place and no crime was registered against the petitioner. It is also stated that despite his representation, dated 26-11-2012 no action was taken. It is further averred that branding the petitioner as rowdy is creating lot of discomfort to the petitioner and his family and he has school going children and one sister for marriage.

Eventually, it is submitted by learned counsel for the petitioner that said opening of rowdy sheet and continuation of the same is a patent violation of fundamental rights guaranteed to the petitioner herein under Articles 14 and 21

of the Constitution of India and opposed to the very spirit and object of Standing Order 601 of Police Standing Orders.

On the contrary, it is vehemently contended by learned Government Pleader for Home that there is justification on the part of the respondent police authorities in opening and continuing the rowdy sheet against the petitioner herein and except opening rowdy sheet, there is no harassment nor any threat from the respondent police authorities and the rowdy sheet is being continued only for the purpose of having observation on the activities of the petitioner.

Rowdy sheet cannot be opened in a mechanical, routine and cavalier manner and the respondent authorities are required to have great care, caution and circumspection 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. Laws are made by the Parliament and the State legislatures, obviously, keeping in view the betterment and welfare of the people. The authorities, discharging functions under the said 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 undoubtedly 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. In other words, every action of the authorities should be in consonance with the basic structure of the Constitution of India which is the dream of the founding fathers of our *Magna Carta*. The action, which is impugned in the present writ petition, is required to be examined and adjudicated in the light of the above issues.

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

“Rowdies

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 Representation of the Peoples' Act for rigging and carrying away ballot papers, Boxes and other polling material."*

According to the counter-affidavit filed by the 3rd respondent – S.I. of Police, as reiterated by learned Government Pleader, in order to curb and curtail the alleged un-lawful activities of the petitioner, the respondents opened rowdy sheet on 16-04-2008 after obtaining permission from the Sub Divisional Police Officer, Kadapa.

According to the Police Standing Order 601, persons who habitually commit, attempt to commit or abet the commission of, offences involving a breach of the peace, disturbance to public order and security and persons bound over under Sections 106, 107, 108 (1) (i) and 110 (e) and (g) of Cr.P.C., and the persons who have been convicted more than once in two consecutive years and the persons who habitually tease woman and girls and pass indecent remarks and the 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 and the persons who incite and instigate communal/caste or political riots and the 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 and the persons who are convicted for offences under the Representation of the Peoples’ Act for rigging and carrying away ballot papers, Boxes and other polling material can only be termed as rowdies.

In the instant case, even as per respondents, two crimes registered under Sections 324 and 307 r/w.34 of IPC and

Sections 420 and 506 of IPC ended in acquittal vide S.C.No.297 of 2008 on the file of the Additional Sessions Judge Court, Kadapa and S.C.No.339 of 2007 on the file of the I Additional Judicial Magistrate of First Class, Kadapa respectively and Crime No.17 of 2009 registered under Section 110 (e) of Cr.P.C., vide M.C.No.29 of 2009 also must have ended by efflux of time.

The only reason assigned in the counter-affidavit for continuation of rowdy sheet against the petitioner is that in order to curb and curtail the unlawful activities of the petitioner the rowdy sheet is being continued.

Even according to the respondents, no fresh cases are registered against the petitioner on the file of the 3rd respondent Police Station. Therefore, the reasons assigned in the counter-affidavit cannot form the basis for continuation of the rowdy sheet opened against the petitioner further and the same would undoubtedly tantamount to violation of Articles 14 and 21 of the Constitution of India. In these circumstances, this Court is inclined to quash the rowdy sheet opened against the petitioner herein.

For the aforesaid reasons, the writ petition is allowed, quashing the rowdy sheet baring No.87 of 2008 opened

against the petitioner on the file of the Station House Officer,
II Town Police Station, Kadapa. However, this will not
preclude the respondents to proceed, in accordance with law.

Miscellaneous Petitions pending, if any, shall stand
closed. There shall be no order as to costs.

A.V. SESA SAI, J

November 28, 2016

Pn



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



WRIT PETITION No.38951 of 2012

November 28, 2016