

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

WRIT PETITION No.37396 of 2012

ORDER:

Opening and continuation of suspect sheet against the petitioner is under challenge in the present writ petition.

Heard Sri V. Raghu, learned counsel for the petitioner and learned Government Pleader for Home for respondents.

According to the petitioner, he is a permanent resident of Vijayawada, Krishna District and is a practicing Advocate and a member in Bejawada Bar Association, Vijayawada. Earlier a rowdy sheet was opened against the petitioner in the year 1994 and questioning the said action, he filed W.P.No24982 of 2004 before this Court.

By way of an order, dated 04-03-2005 this Court allowed the said writ petition, directing the respondents to close the rowdy sheet opened against the petitioner while keeping it open for the respondents to initiate fresh action, in accordance with the provisions of the Police Standing Order 742. In terms of the above said order police deleted the name of the petitioner from the Rowdy sheet on 31-03-2005 but later opened the suspect sheet on 11-04-2005. The said action on the part of the respondents is under challenge in the present writ petition.

According to the learned counsel for the petitioner, inclusion of name of the petitioner in suspect sheet in the absence of involvement in any criminal case and conviction of the petitioner in any other case after the deletion of the name of the petitioner from the rowdy sheet pursuant to the orders of this Court in W.P.No.24982 of 2004 is highly illegal, arbitrary and in total

violation of Articles 14 and 21 of the Constitution of India and opposed to the very spirit and object of Police Standing Orders 600, which deals with the suspect sheet.

Police Standing Order 600 reads as under:

“1. The following persons should be classified as suspects and History Sheets shall be opened for them under the orders of the Superintendent of Police/ SDPO.

- A. Persons once convicted under any section of the Indian Penal Code who are considered likely to commit crime again, and
- B. Persons, not convicted, but believed to be addicted to crime.
- C. Members of criminal gangs or organized criminal syndicates.
- D. Communal and Caste activists who are known to instigate, organize violence or spark off communal or caste riots.
- E. Smugglers, hoarders, blackmarketeers and for professional land grabbers.

2. Care should be taken to see that History Sheets are opened under this Order only for persons who are likely to turn out to be habitual criminals or who are members of organized crime syndicates or such organizations who had history or plan for violence and therefore, require close surveillance. The material and information collected to obtain orders from the SsP or other officers authorized to order opening of history sheets in this category should bring out the above requirements.”

Counter-affidavit filed by the Sub-Inspector of Police, Machavaram Police Station, Vijayawada City at paragraph No.6, seeks to justify the impugned action by stating as follows:

“6. It is further respectfully submitted that while the matters stood thus, it came to the adverse notice of the respondent police, that the petitioner being an Advocate, in the guise of advocacy, it is learnt that he is calling parties and trying to settle the civil disputes under threat with the able assistance of his associates. On account of his previous history, the victims are not coming forward to give complaint against him. Now and then anonymous phone calls are being received against him about his civil settlements. Keeping in view of the above facts into consideration, it is necessary on the part of the respondent police to keep a watch over the criminal activities of the petitioner herein and to control his nefarious activities more particularly in the vicinity of Machavaram Police Station limits, after obtaining permission from the then Assistant Commissioner of Police, Division-II, Vijayawads City, a suspect sheet was opened against the petitioner herein on 11.4.2005 under the provisions of order No.601 of APPM, volume-II. Since then, the suspect sheet of the petitioner has been continued from time to time and it stands extended till 31.12.2012.”

It is also evident from paragraph No.7 of the counter-affidavit that no fresh cases are registered against the petitioner on the file of Machavaram Law and Order Police Station. In the absence of involvement of the petitioner in any fresh cases and in absence of any conviction against the petitioner herein in any criminal cases, there is absolutely no justification on the part of the respondents in opening a suspect sheet against the petitioner. In the considered opinion of this Court the justification sought to be offered in the counter-affidavit cannot be sustained and the impugned action in the considered opinion of this Court is totally a patent infraction of the fundamental rights guaranteed to the petitioner under Chapter 3 of the Constitution of India.

For the aforesaid reasons, the writ petition is allowed,

setting aside the suspect sheet opened against the petitioner herein. However, this order will not preclude the respondents to proceed, in accordance with law, in the event of involvement of the petitioner in any criminal cases in future.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

July 15, 2016
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