

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.16891 and 13966 of 2017

COMMON ORDER:

1) W.P.No.13966/2017 is filed seeking issuance of writ of mandamus declaring the action of the respondent in disclosing the name of the petitioner in the list of the rowdy-sheeters board in the Police Station of the 4th respondent without issuing any notice or conducting enquiry as illegal and improper.

2) W.P.No.16891 of 2017 is filed seeking issuance of writ of mandamus declaring the action of the respondents 2 to 4 herein in giving directions to 5th respondent from making calls and insisting the petitioner to come to police station during the pendency of W.P.No.13966 of 2017 in spite of representation dated 03.05.2017 as illegal, arbitrary and unjust; and consequently direct respondent Nos.2 to 4 herein to take appropriate action against respondent No.5 pursuant to the representation dated 03.05.2017. .

3) The facts in issue are asunder:

The petitioner herein is said to be an Advocate practising in Guntur and also the founder of a society called "Tulasai Seva Sangham", established with an object to serve poor and needy. It is

said that in discharge of his duties, the petitioner as an Advocate questioned the illegal action of the 4th respondent and also the misuse of official position by the respondents. The averments in the affidavit show that the petitioner along with the residents of 5th ward Bapatla municipality, questioned the activities of the 5th ward councilor when he was selling water violating the terms of NTR sujala scheme. Cases came to be filed at the instance of the petitioner and also against the petitioner, at the instance of the councilor. However, the said cases were withdrawn before the Lok Adalat vide LAC.No.24/2016. After withdrawal of the case, the 4th respondent started harassing the petitioner by calling him to the P.S., very frequently. The averments in the affidavit also show instances where the action of the 4th respondent was resisted by the petitioner. The petitioner also claims to have filed W.P.No.32093/2016 questioning the action of the 4th respondent in foisting criminal case against the petitioner vide FIR No.85/2016 dated 25.05.2016. The averments in the affidavit also refer to incidents where the ruling party members along with others attacked the petitioner and robbed him of Rs.17,000/- He is said to have received severe injuries and also got himself admitted in the hospital. Though the petitioner lodged a report, but the 4th respondent kept it aside and registered cases against him vide Cr.No.172/2016 and 173/2016 for various offences. However, after

persuasion, the 4th respondent also registered a case against the rival group vide Cr.No.174/2016. Challenging the action of the 4th respondent in opening a rowdy sheet in Bapatla P.S., and also publishing the name in the rowdy sheet board, the present writ petition is filed.

4) Even as per the contents of the affidavit, Cr.No.85/16 was registered for the offences u/s.506 read 34 IPC, while Cr.Nos.172 and 173 of 2016 were registered for various offences .

5) A counter came to be filed by the Sub Divisional Officer, Bapatla, Guntur denying the allegations made in the affidavit filed in support of the writ petition. As per the counter, the petitioner is involved in six crimes. Out of which Cr.No.4/2011 was dropped, Cr.No.262/2014 was closed as false, Cr.No.72/16 was compromised before the L.A., and three cases which are referred to above are said to be pending. In view of the above, rowdy sheet is said to have been opened against the petitioner. The first case is registered in the year 2006 and charge sheet is filed on 15.06.2016. Rest of two cases were registered in the month of December, 2016 and both the cases are pending for trial. It is also to be noted here that pursuant to a complaint made before Meekosam dt:21.11.2016, the inspector of police, Bapatla, conducted an enquiry and submitted his report dt:07.01.2017 to the S.P., Guntur Rural. Thereupon S.P. of Police, sent

a reply to the petitioner therein vide C.E. No.13771/D3/2016 dt:21.02.2017 enclosing a copy of the enquiry report. The same was also uploaded in the web. In view of the above it cannot be said that the subsequent orders issued basing on the said report are illegal and improper.

6) As seen from the record, two reliefs are claimed in the two writ petitions. In W.P.13966 of 2017 the petitioner is questioning the opening of the rowdy sheet and also displaying his name in the list of the rowdy sheet board in the P.S. The second relief is with regard to the harassment in the hands of the respondent No.5, wherein he is called to the P.S., frequently. Insofar as the reliefs more particularly in calling the petitioner to the P.S. the learned G.P. for Home denies the said act. According to her, since a rowdy sheet was opened and having regard to the fact that some crimes are registered against him, the police must have been called the petitioner to the P.S., during the course of investigation. However, on instructions she submits that the petitioner never brought to the P.S., so as to harass him. Recording the statement made, the said writ petition is disposed of directing the police not to summon the petitioner to P.S., without following due course of law.

7) Insofar as the opening of the rowdy sheet is concerned and also displaying his name in the board, it is urged that the said action is illegal as the notice sent to the authorities explaining the facts in issue were never considered before taking any action. Insofar as the merits of each case is concerned, it may not be proper for this court to go into these, aspects since a competent criminal court is already seized of the matter and it is for that court to decide as to whether the petitioner is innocent or guilty. Definitely this court cannot decide the merits of the cases while dealing with the relief which is sought for in the present writ petitions.

8) The main ground urged by the learned counsel for the petitioner that the matter requires to be reconsidered by the authorities for opening the rowdy sheet since the representation of the petitioner and the material filed by him were never considered and continued his name in the rowdy sheet.

9) The G.P. for Home would contend that once in a year the committee will consider whether to continue the rowdy sheet or not. In the instant case, the committee felt that it is a fit case where the rowdy sheet has to be continued till the end of December, 2017, as the petitioner is involved in three cases during the years 2016 and 2017. The question is whether the registration of the crimes for the

offences under penal code itself be a ground to continue the rowdy sheets. It is no doubt true that the Cr.No. 85/2016 was registered for the offence punishable under section 506 IPC. Cr.No.172/2016 registered for the offences punishable under Sections 353 and 506 IPC and Crime NO.173 of 2016 is registered for the offences punishable under Sections 323, 392 and 354-B IPC. Police standing order 601 deals with classification of the persons as rowdies and also as to when the rowdy sheet can be opened.

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

10) It is to be noted herein that the petitioner herein is an advocate and his mother is a Ward Member, Bapatla municipality. Some disputes arose between the petitioner and the local leader as the petitioner is in the habit of fighting for the public at large. Though six crimes came to be registered, three of them were closed and referred false

or settled before the lok adalat. Insofar as the remaining three crimes are concerned all of them are registered in the year 2016. Reading of 601 clearly indicate that a rowdy sheet can be opened, if any person habitually commits, attempt to commit or abet the commission of, offence involving a breach of the peace, disturbance to public order and security. In the instant case, two crimes came to be registered for the offences u/s.506 IPC, which relates to criminal intimidation.

11) Averments in Cr.No.85/16 of Bapatla P.S., relates to the offences punishable under Sections 506 read with 34 IPC. The incident in the crime relates to a dispute between two individuals. Crime No.172 of 2016 relates to a case where the petitioner is alleged to have put up a quarrel with the D.E.E., Bapatla Municipality and the Contractor Srinivasa Rao questioning them as to why they have not given any information to the petitioner while laying a cement road for second ward, Bapatla town.

12) The third incident, Crime NO.173 of 2016 relates to a dispute where the petitioner is alleged to have abused the Municipal Engineers when a cement road was being laid by the municipal engineers near the house of the informant. It is said that when the petitioner came and questioned about laying of a road, an incident is alleged to have taken

place during which all the accused tore the jacket of the petitioner and also robbed his chain. As seen from the record, three crimes are said to be pending against the petitioner for the offences punishable u/s.506 read with 34 IPC, and u/ss.354-B, 323, 392 IPC and u/s.509 IPC. All these offences, which are subject matter of Cr.Nos.85/16, 172/16 and 173/16 are pending before a competent court. The grievance of the petitioner is that the authorities have opened a rowdy sheet against the petitioner though these offences by any stretch of imagination would cause breach of peace of the locality. According to him, these crimes came to be registered pursuant to a dispute/incident which took place between the two individuals. In view of the above, he submits that the authorities should reconsider, continuation of rowdy sheet in the police station. As seen from the arguments advanced, the request of the petitioner was to reconsider the representation made by him for closure of the rowdy sheet, since the same is sought to be continued without hearing and considering the explanation given by him.

13) In view of the above, the petitioner herein, who is a practicing Advocate, shall give a fresh representation to the authorities giving reasons as to why the continuation of rowdy sheet opened against him is illegal and improper, in which event the said authority shall consider

the same having regard to the judgments of the Apex Court. Further, merely because the rowdy sheet is pending, the authorities shall not summon him to the police station illegally, without following due process of law.

14) With the above direction, both the Writ Petitions are disposed of. No costs. Miscellaneous Petitions pending if any, in both the Writ Petitions, shall stand closed.

Dt: 02.08.2017
GM



JUSTICE C. PRAVEEN KUMAR