

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.22527 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the action of respondents 3 and 4 in opening and continuing Rowdy Sheet No.70 on the file of Hindupur II Town Police Station, Hindupur, Anantapur District, against the petitioner, as illegal and arbitrary.

As seen from the affidavit filed in support of the writ petition, it is the case of the petitioner that in the year 2001 a case in crime No.48/2001 of Hindupur II Town Police Station was registered against him for the offences punishable under Sections 147, 148, 448, 436 and 427 r/w.149 of Indian Penal Code. In the same year, the Police opened rowdy sheet No.70 against the petitioner, exercising their power under Standing Order No.742 of A.P. Police Manual. The same is being continued till date. After completion of investigation in crime No.48/2001, a charge sheet came to be filed and the said case ended in an acquittal. The grievance of the petitioner is that *in spite* of the fact, that the petitioner was acquitted in above-stated crime, the respondents-Police are continuing with the rowdy sheet and calling the petitioner to Police Station regularly. Challenging the action of the respondents-Police in continuing the rowdy sheet, even after acquittal by a competent Criminal Court, the present Writ Petition came to be filed.

A counter came to be filed by the third respondent stating that the petitioner is involved in two cases viz., (1) crime No.48/2001 registered for the offences punishable under Sections 147, 148, 448, 436 and 427 r/w.149 of Indian Penal Code of

Hindupur II Town Police Station. The said case ended in an acquittal vide judgement dated 12.12.2002 rendered in S.C.No.209/2002 on the file of Assistant Sessions Judge, Hindupur; and (2) crime No.64/2004 u/s.107 Cr.P.C. of Hindupur II Town Police Station wherein the Mandal Executive Magistrate, Hindupur, ordered bounding over of the petitioner for keeping good behaviour for a period of six months vide MC No.66/2004. It is further stated that since the petitioner is young and active, it is necessary to watch his activities and as such the rowdy sheet is continued against the petitioner. It is submitted that since the petitioner is not residing in the given address, his whereabouts are also not known to the respondents-Police and as such the allegation made by the petitioner that the respondents-Police are calling him to the Police Station regularly is false. It is further submitted that since the case of the petitioner does not fall within the directions of this Court in W.P.No.18142 of 2012 dated 24.08.2015, his case was not considered.

Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Home. With their consent, the Writ Petition is disposed of at the stage of admission itself.

A reading of the counter would show that two crimes came to be registered against the petitioner viz., (1) crime No.48/2001 of Hindupur II Town Police Station for the offence punishable under Sections 147, 148, 427 r/w.149 IPC and Section 7 (1) of Criminal Law Amendment Act which ended in an acquittal vide judgment dated 12.12.2002 rendered in S.C.No.209/2002 by the Assistant Sessions Judge, Hindupur. The second case is crime No.64 of

2004 on the file of Hindupur II Town Police Station, Ananthapuramu District, relates to initiation of proceedings under Section 107 Cr.P.C. wherein the petitioner was directed to bound over, for a period of six months, which period has come to an end long back.

The question now before this Court is ‘whether the rowdy sheet, which was opened against the petitioner in the year 2001, can be continued?’

Similar issue came up for consideration before this Court in ***K.Suresh babu v. Superintendent of Police, Anantapur District***¹. Relevant observations made by the Court in said judgment are as follows:

“12. In *Majid Babu v. Government of A.P. (3) 1987 (2) ALT 904*, a learned Judge of this Court was dealing with opening of a rowdy sheet under Standing Order 742. The learned Judge held that two instances of involvement in criminal cases would not make a person a ‘habitual offender’ and that at least more than two persons can be described as a habitual offender.

13. This principle was affirmed by another learned Judge of this Court in *Kamma Bapuji v. Station House Officer, Brahmasamudram (4) 1998 (2) An.W.R. 55 = 1997 (6) ALD 583*. In this case, the persons in whose name the rowdy sheets were opened were involved in two cases but they were acquitted in both. It was sought to be contended on behalf of the police authorities that the rowdy sheets were opened during the pendency of the cases and that acquittal therein would be of no consequence thereafter. The learned Judge rejected this contention and held that rowdy sheets could not be opened in a casual and mechanical manner and a person

¹ 2015 (6) ALT 556

could not be dubbed a 'habitual offender' merely because he was involved in two criminal cases.

14. A Division Bench of this Court in *Puttagunta Pasi v. Commissioner of Police, Vijayawada* (5) 1998 (3) ALT 55 (D.B.) confirmed this principle holding that a rowdy sheet could not be opened against an individual in a casual and mechanical manner and due care and caution should be taken by the police before characterizing a person as a rowdy. Referring to the earlier case law, the Division Bench expressed agreement with the view of the learned Judge in *Kamma Bapuji* (4 supra) that figuring as an accused in two crimes would not be sufficient to categorize a person as a 'habitual offender'. The same principle was affirmed in *Shaik Mahboob v. The Commissioner of Police* (6) 1996 (1) APLJ 363, *Gudivada Sai Baba v. State of A.P., Home Department* (7) 2002 (3) ALT 391, *P.Sathiyya Naidu v. Superintendent of Police, East Godavari District* (8) 2011 (2) ALT 61 and *Beerjepally Venikatesh Babu v. State of A.P.* (9) 2014 (3) ALT 264."

19. In the light of the afore-stated settled legal position, the opening of a rowdy sheet in the name of the petitioner on the basis of his involvement in a solitary criminal case was not sufficient to term him a 'habitual offender' under clause (A) of Order 601. Further, it is an admitted fact that he stood acquitted in the said case. Despite the same, the Police authorities seem to have continued the rowdy sheet in his name. This Court therefore has no hesitation in holding that the opening of the rowdy sheet in the name of the petitioner and continuance of the same thereafter was in utter violation of the law laid down by this Court."

Coming to the case on hand, two cases are registered against the petitioner herein. The first case is in crime No.48 of 2001 of Hindupur II Town Police Station, which ended in an acquittal vide judgment dated 12.12.2002 rendered in S.C.No.209 of 2002 by the Assistant Sessions Judge, Hindupur. The proceedings initiated

u/s.107 Cr.P.C. against the petitioner in connection with another crime i.e. crime No.64 of 2004 of Hindupur II Town Police Station, for a period of six months, which period is also over long back. The counter nowhere indicates registration of any crime against the petitioner after the year 2004. In view of the same and having regard to the ratio laid down by this Court in **Suresh Kumar** (*supra*), the petitioner cannot be termed as 'habitual offender' under clause (A) of Order 601. Therefore, this Court is of the opinion that continuation of rowdy sheet No.70, opened in the name of the petitioner by the Hindupur II Town Police Station, is illegal and improper and is liable to be quashed and is accordingly quashed.

Accordingly, the Writ Petition is allowed.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No costs.

27.06.2017
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C. PRAVEEN KUMAR, J