

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.20532 of 2017

ORDER:

Opening of a rowdy-sheet against the petitioner by the respondent/Police lead to filing of the present Writ Petition.

2) The averments in the affidavit filed in support of the Writ Petition would show that the petitioner is a permanent resident of Tadigadapa village and was eking out his livelihood by doing petty works in the village. Questioning the action of the respondents in opening rowdy sheet against the petitioner and continuing the same without following the due process of law, is the subject matter in the present Writ Petition.

3) The petitioner herein was involved in Cr.No.151 of 2007, which was registered for the offence punishable under Section 109 Cr.P.C. of Penamaluru Police Station, Vijayawada city. A case in Crime No.591 of 2009 was also registered for the offence punishable under Section 110(e) Cr.P.C. In the year 2012 another crime came to be registered against him vide Cr.No.229 of 2012 of Penamaluru Police Station for the offence punishable under Section 8(c) read with Section 20(b) of Narcotic Drugs and Psychotropic Substances Act, 1985. The said case was taken on file as C.C.No.20 of 2013 on the file of I Metropolitan Magistrate, Vijayawada, which ended in acquittal on 17.05.2016.

4) A counter came to be filed disputing the averments made in the affidavit. According to him, the petitioner is involved in five cases, apart from the crimes referred to above. It is stated that the petitioner was also involved in petty case No.7002 to 7012 of 2011 registered under Section 9(1) of A.P. Gaming Act. In the said case, the petitioner was convicted and directed to pay fine of Rs.300/- vide S.T.C.No.65 of 2011. The counter also refers to a case in Cr.No.229 of 2012 registered for the offence under Section 8(c) read with 20(b) of NDPS Act and Cr.No.587 of 2016 registered for the offence under Section 3 and 4 of the A.P. Gaming Act, wherein, after filing of charge-sheets, both the cases ended in an acquittal. It is stated that since the petitioner is involved in the above cases, to keep watch on the activities and to curtail his unlawful activities, the rowdy sheet has been opened against the petitioner. It is also stated that the allegation of depriving the right to privacy, life and liberty of the petitioner by frequently calling him to the police station are totally false and baseless. It is stated that the petitioner submitted a petition dated 14.12.2016 seeking the respondent/police to close the rowdy sheet pending against him, but the said request was rejected, thereby continuing with the rowdy sheet against the petitioner upto 31.12.2017. Hence, the respondent prays to dismiss the Writ Petition.

5) Learned counsel for the petitioner mainly submits that since no cases are pending against the petitioner and as the petitioner

is not habitually involved in an offence causing breach of peace or disturbance to public or security, pleads for closure of rowdy sheet. The same is opposed by learned Government Pleader for Home contending that the fact that the petitioner involved in number of cases under Gaming Act itself is sufficient to continue the rowdy sheet.

6) As seen from the record, out of the five crimes said to have been registered against the petitioner, Crime Nos.51 of 2007 and 591 of 2009 were closed prior to the opening of the rowdy sheet. Cr.No.229 of 2012 was registered under the provisions of Narcotic Drugs and Psychotropic Substances Act, which ended in acquittal. In petty cases Nos.7002 to 7012 of 2011, while convicting, a fine of Rs.300/- was imposed. Insofar as Crime No.587 of 2016 is concerned, the same ended in acquittal. So as things stand today, there are no cases pending against the petitioner. As seen from the record, as per the orders of the Assistant Commissioner of Police East Division, Vijayawada city dated 03.01.2010 rowdy sheet has been opened by the Station House Officer, Penamaluru Police Station, Vijayawada, which is being continued till date.

7) 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. "

8) A bare reading of the standing order would reveal that no person can be characterized and classified as rowdy and no rowdy sheet can be opened unless the case of such persons falls in any one or more of the categories mentioned in the standing order. In **Kamma Bapuji and others v. Station House Officer, Brahmasamudram and another**¹ this Court held as under:-

"It is required to notice that characterizing and classifying a person as rowdy and opening a rowdy sheet is fraught with serious consequences. The personal liberty, including the privacy of the concerned person would be definitely curtailed to some extent as such persons comes under surveillance where his movements are watched by the police. In practice, it is brought to the notice of the court that in many cases, the concerned police officers insist the presence of all rowdy-sheets in the police stations. In such view of the matter, the Court in exercise of its jurisdiction under Article 226 of the Constitution of India is required to strictly scrutinize the action of the police officers in opening the rowdy sheets, who are required to act reasonably and fairly and in an objective manner. Rowdy sheets cannot be opened against any individual in a casual and mechanical manner. It would not be enough to dub a person as habitual offender and open rowdy sheet. Due care and caution is required to be taken by the police officers before characterizing a person as a rowdy."

9) The Apex Court in **Dhanji Ram Sharma v. Superintendent of Police, North District, Delhi Police and others**² described as to who an habitual offender is :-

"7. A habitual offender or a person habitually addicted to crime is one who is a criminal by habit or by disposition formed by repetition of crimes. Reasonable belief of the police officer that the suspect is a habitual offender or is a person habitually addicted to crime is sufficient to justify action under Rules 23.4(3)(b) and 23.9(2). Mere belief is not sufficient. The belief must be reasonable, it must be based on reasonable grounds. The suspect may or may not have been convicted of

¹ 1997(6) ALD 583

² AIR 1966 SC 1766

any crime. Even apart from any conviction, there may be reasonable grounds for believing that he is a habitual offender."

10) The issue as to when and how the rowdy sheet can be opened came up for consideration before this Court in **K.Suresh Babu v. Superintendent of Police, Anantapur District, Anantapur and another³** and **Sunkara Satyanarayana v. State of Andhra Pradesh and others⁴**.

11) It is to be noted that learned Government Pleader mainly laid much stress on the petty cases which were registered against the petitioner wherein a fine of Rs.300/- was imposed. Dealing with the said aspect as to whether a rowdy sheet can be opened based on the petty cases, a learned Single Judge of this Court in **Sunkara Satyanarayana's case (4 supra)** observed as under:-

"The pendency of petty cases under the Gaming Act cannot be the ground for retention of the history sheet. Even on this it is to be noticed that with regard to petty case Nos.303 to 306 of 1997 under Section 9(1) of Gaming Act and petty case Nos.416 to 415 of 1977 for the same offence, fine was imposed in summary trial cases. The offences against a person under Gaming Act, if any, do not furnish any ground for opening a history sheet. Therefore, it has to be held that the fundamental rights of the petitioner to the life and liberty have been grossly violated by the respondents. The spirit of relevant Police Standing Orders have not been kept in view."

12) Therefore, from the judgments referred to above, it is clear that opening and retention of rowdy sheet or history sheet

³ 2016(1) ALD (CrI.) 210

⁴ 2000(1) ALD (CrI.) 117 (AP)

cannot be a matter of course. Though this court gave direction to the authority to consider as to whether continuation of a rowdy sheet is warranted every year, but it appears that the authorities are continuing the same without looking into the changed circumstances. As seen from the record, all the cases ended in acquittal but still without assigning any reasons, the rowdy sheet is being continued till December 2017. In fact the proceedings under Sections 109 and 110 Cr.P.C., were closed in the year 2007 and 2009 respectively i.e., much prior to opening of the rowdy sheet. Thereafter there were never any proceedings under Sections 109 and 110 Cr.P.C. Insofar as the case under NDPS Act and petty cases concerned, they are also ended in acquittal. Hence, this Court is of the view that continuing of rowdy sheet against the petitioner is in violation of the A.P. Police Manual Standing Orders and is liable to be suspended.

13) Accordingly, the Writ Petition is allowed. No costs. Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:20.07.2017

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