

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

WRIT PETITION No.27710 OF 2016

ORDER :

Heard Sri Namavarapu Chanti Babu, learned counsel for the petitioners and learned Government Pleader (Home) for respondents.

A rowdy sheet opened against the petitioners herein C.No.3/ROWDY-SDOC/16, dated 11-04-2016 on the file of the 4th respondent is under challenge in the present writ petition.

Learned counsel for the petitioners submits that the action on the part of the respondent authorities in opening the rowdy sheet and continuing the same against the petitioners is illegal, arbitrary, unreasonable and violative of Article 14 and 21 of Constitution of India, besides opposed to the very spirit and object of the provisions of the A.P.Police Standing Orders, 601. In elaboration, it is submitted by the learned counsel that there is no conviction order so far in any of the crimes registered against the petitioners herein.

On the other hand, it is submitted by the learned Government Pleader that in view of the involvement of the petitioners herein in a number of crimes, it has become incumbent on the part of the police authorities to open rowdy sheet against the petitioners herein in order to keep a watch on their movements and in order to curtain their activities. He further submits that the rowdy sheet against the petitioners herein is being continued out of public interest.

Counter affidavit deposited by the Sub Divisional Police Officer, Chirala is filed.

According to the said counter affidavit, four crimes are registered against the petitioners herein and following are the particulars of the same.

1. Cr.No.5/2015 on the file of Inkollu Police Station for the offences registered U/s.354, 509, 323 r/w.34 IPC.

2. Cr.No.26/2015 on the file of Inkollu Police Station for the offences registered U/s.447, 354, 323, 509 r/w.34 IPC.

3. Cr.No.105/2015 on the file of Inkollu Police Station for the offences registered U/s.354, 323, 506 r/w.34 IPC.

4. Cr.No.115/2015 was registered for the offences U/s.107 Cr.P.C.

According to the counter affidavit, in Cr.No.5/2015, after filing of charge sheet, case is pending for trial on the file of Judicial Magistrate of First Class, Parchur and in Cr.No.26/2015, case is under investigation. In Cr.No.105/2015, case is pending trial vide C.C.No.130/2016 on the file of Judicial Magistrate of First Class, Parchur and Cr.No.115/2015 was registered for the offence U/s.107 Cr.P.C and petitioners herein are shown as accused A-5, A-4, A-1 and A-3 respectively. The Special Executive Magistrate, Ongole bound over the petitioners herein for good behaviour for a period of six months, vide M.C.No.165/2015.

By way of an additional affidavit, filed by the petitioners herein, it is brought to the notice of this Court that CC.No.44/2015 on the file of Judicial Magistrate of First Class,

Parchur ended in compromise before the Lok Adalat on 22.04.2018 and an award is passed on even date and a copy of the same is placed on record. It is also brought to the notice of this Court that 1st petitioner's daughter instituted a suit in O.S.No.154/2015 for injunction and the same was decreed by learned Junior Civil Judge, Parchur vide judgment dated 17.08.2018 along with O.S.No.9 of 2010 by way of common judgment and the same is placed on record. It is also submitted that by efflux of time, bound over proceedings in Cr.No.115/2015 initiated by the Special Executive Magistrate, Ongole came to an end long back.

The principle contention advanced by the learned Government Pleader in order to sustain the impugned action is that having regard to the involvement of petitioners herein in a number of crimes, a rowdy sheet is opened against the petitioners and is being continued only to keep a watch on the movements of the petitioners herein.

The provisions of the Police Standing Orders are penal in nature, as such, strict adherence to said provisions is mandatory. While pressing the said provisions into operation utmost care and caution are required to be taken, by the authorities. Rowdy sheet cannot be opened in a causal manner otherwise, the same amounts to invasion into the fundamental right of a citizen guaranteed under Article 21 of Constitution of India. It is also required to be noted that there is no conviction order against the petitioners so far in any one of the crimes, as submitted by the learned counsel for the petitioners. The

authorities while opening the rowdy sheet are required to examine whether the mandatory ingredients of the Police Standing Orders, 601 do exist or not. In a given case, unless there are ingredients, rowdy sheet cannot be opened in a routine manner.

For the aforesaid reasons, writ petition is disposed of, leaving it open for the petitioners herein to make an appropriate application/representation before the 3rd respondent within ten (10) days from the date of receipt of copy of this order with a further direction to the 3rd respondent to pass appropriate orders within eight (08) weeks from the date of receipt of said application, strictly in accordance law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

17.12.2018
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A.V.SESHA SAI, J

