

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

W.P.No.6124 of 2018

ORDER:

This writ petition challenges the opening and continuation of Rowdy Sheet against the petitioner herein.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the respondents.

3. It is contended by the learned counsel for the petitioner that the impugned action is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India besides opposed to the very spirit and object of Standing Order 601 of Police Standing Orders. It is further submitted in elaboration that so far there is no conviction against the petitioner herein by any Court of law nor the petitioner is a habitual offender nor the case of the petitioner falls under any one of the contingencies as mentioned in Clause A to I of Standing Order 601 of Police Standing Orders.

4. On the other hand, it is strenuously contended by the learned Government Pleader that there is absolutely no illegality nor there exists any infirmity in the impugned action and in order to have a close watch on the activities of the petitioner herein the authorities are continuing the Rowdy Sheet against the petitioner herein.

5. In the above background, now the issue that emerges for consideration of this Court is_”Whether the respondent police authorities are justified in opening and continuing Rowdy Sheet against the petitioner herein?

6. The information available before this Court in vivid and clear terms reveals that on the basis of the alleged involvement of the petitioner herein the police registered a Crime No.199 of 2008 against the petitioner herein under Section 302 R/W 34 I.P.C on the file of Tirupathi East Police Station. In the said crime, after completion of investigation, police filed a charge-sheet and the same was numbered as SC.21 of 2009, on the file of the Court of the VI Additional District and Sessions Judge, Chittoor. The learned VI Additional District & Sessions Judge, Tirupathi, Chittoor District acquitted the petitioner herein of the charge by judgment dated 09.03.2012 in SC.No.21 of 2009. It is not the case of the respondents herein that the respondents carried the matter in appeal against the said order of acquittal. The only justification sought to be offered by the respondents is the alleged involvement of the petitioner in the said crime which ended in acquittal.

7. According to the learned Government Pleader, the case of the petitioner herein does attract Clause (A) of Standing Order 601 of A.P. Police Standing Orders. In this context, it may be appropriate to refer to the judgment of this Court in the case of *M.MALLAREDDY v. STATE OF TELANGANA*¹ and others wherein this Court while dealing with the opening of Rowdy Sheet, at paragraph 10 held as under:

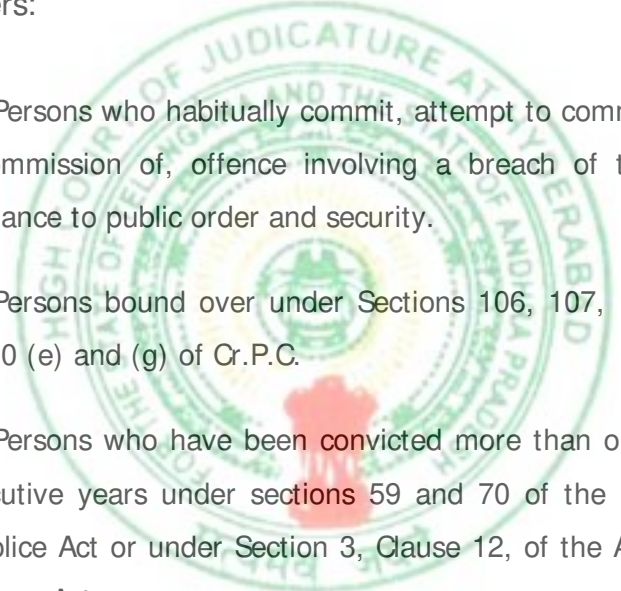
“Rowdysheet cannot be opened in a mechanical, routine and cavalier manner and more care and caution and circumspection is required to be observed for opening of the rowdysheet as the same undoubtedly touches the personal liberty of the citizen and has a considerable impact on the fundamental rights as enshrined under Chapter III of the Constitution of India. The State and its instrumentalities are the custodians of the statutory and constitutional rights of the citizens. Parliament and the State legislature render the laws, keeping in view the betterment and welfare of the people and the parties functioning under the State laws have the holy and sacred obligation to discharge their

¹ 2016 1 ALD (CRL) 591

duties keeping in view the object and intention behind the said laws made by the legislature. Any deviation and breach of the same would render the actions invalid and void. The actions of the authorities should necessarily be in the direction of creating and strengthening the confidence of the people in the system, lest anarchy prevails, which would never be in the interest of the democratic system which is guided by the rule of law. Every action of the authorities should be in consonance with the basic structure of the Constitution of India which is the dream of the founding fathers of our magna carta. The action which is under challenge in these writ petitions is required to be examined and adjudicated in the light of the above issues.”

8. It is also appropriate to extract Standing Order 601 of A.P. Police

Standing Orders:

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- 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.

9. It is required to be noted in this context that the above provisions are penal in nature, as such, strict adherence to the same is mandatory and obligatory while opening the Rowdy Sheet against an individual which invades into the fundamental right guaranteed under Article 21 of the Constitution of India. According to the learned Government Pleader, the case of the petitioner herein falls under Clause-A of Standing Order 601 of the A.P. Police Standing Orders and according to which a Rowdy Sheet can be opened against the persons who commit or abet the commission of offence involving a breach of the peace, disturbance to public order and security.

10. In the instant writ petition, according to the respondents, the respondent police authorities registered only one crime against the petitioner herein in the year 2008 i.e., Cr.No.199 of 2008 for the alleged offence under Section 302 R/W Section 34 of I.P.C. It is also not in dispute that after the trial, the Court of the District and Sessions Judge acquitted the petitioner herein in S.C.No.21 of 2009 and it is also not in controversy that no appeal was preferred against the said order of acquittal.

11. The information available before this Court also does not speak anything with regard to the petitioner herein thereafter involving in any other case. Therefore, the petitioner herein cannot be branded as a habitual offender. In view of the same, this Court absolutely has no

scintilla of hesitation nor any shadow of doubt to hold that the very opening of the Rowdy Sheet and continuation of the same against the petitioner herein is a patent violation of Article 21 of the Constitution of India.

12. For the aforesaid reasons, writ petition is allowed, setting aside the Rowdy Sheet No.202 opened against the petitioner herein on the file of East Police Station, Tirupathi and thereafter transferred to Alipiri Police Station, Tirupathi and numbered as Rowdy Sheet No.190. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date:19.11.2018
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A.V.SESHA SAI, J



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



W.P.No.6124 of 2018

Dated: 19.11.2018

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