

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

WRIT PETITION No.6946 OF 2016

ORDER:

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

2. In the present Writ Petition, challenge is to the action of the respondents in opening and continuing the history sheet against the petitioner herein.

3. According to the learned counsel for the petitioner, the petitioner is a native of Achanta Vemavaram Village, Achanta Mandal, West Godavari District and his profession is weaving. It is further stated that in the year 2000, the 3rd respondent-Station House Officer, Achanta Police Station, West Godavari District, registered a case against the petitioner and two others, vide Crime No.123 of 2000, for the alleged offences punishable under Sections 379 and 411 IPC and the same was numbered as C.C.No.6 of 2000 on the file of Judicial Magistrate of Second Class, Palakollu. It is further stated that during pendency of the said criminal case, the respondent/police opened History Sheet bearing No.121/2001 against the petitioner herein in the year 2000. It is also the case of the petitioner herein that the learned Judicial Magistrate of Second Class, Palakollu, after elaborate trial, acquitted the petitioner for the charges in C.C.No.6 of 2000. It is also the case of the petitioner that thereafter the petitioner submitted number of representations and personally met the respondents, requesting them to close the said History Sheet.

4. It is the grievance of the petitioner that even after lapse of 16 years, the respondents have not chosen to close the history sheet and according to the learned counsel for the petitioner, the said action of the respondents is highly illegal, arbitrary, unconstitutional and violative of Articles 14 and 21 of the Constitution of India. It is further maintained by learned counsel for the petitioner that the impugned action is opposed to the very spirit and object of the Police Standing Orders. It is further stated by learned counsel for the petitioner that the children of the petitioner became majors now and the impugned action is adversely affecting the family of the petitioner herein, which is causing damage and reputation in the society. Learned counsel for the petitioner places reliance on the Judgment of this Court reported in **M.Malla Reddy v. State of Telangana and others**¹, wherein at para 10, it was held as follows:

“Rowdy-sheet cannot be opened in a mechanical, routine and cavalier manner and great care, caution and circumspection are required to be observed for opening of the rowdy-sheet 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 Legislatures make the laws, keeping in view the betterment and welfare of the people and the authorities functioning under the same laws have the holy and scared obligation to discharge their 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 inconsonance 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, assessed and adjudicated in the light of the above issues.”

¹ 2016 (1) ALD (Cr.) 591

5. On the other hand, it is submitted by learned Government Pleader that the petitioner herein can make an application before the 2nd respondent herein, explaining all the above aspects and as and when such an application is filed, the same will be considered and appropriate action will be taken strictly in accordance with law.

6. Having heard the learned counsel for the petitioner and learned Government Pleader, this Court, in the facts and circumstances of the case, deems it appropriate to dispose of the Writ Petition with a direction to the petitioner to submit a representation to the 2nd respondent by enclosing a copy of the above said Judgment.

7. Accordingly, the Writ Petition is disposed of, keeping it open to the petitioner herein to submit a representation to the 2nd respondent herein with a request to close History Sheet bearing No.121/2001 by enclosing the judgment of this Court cited supra, within a period of two weeks from the date of receipt of a copy of this order. If any such representation is made, the same be considered and appropriate action be taken as per law, within a period of three months from the date of receipt of such application.

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

A.V.SESHA SAI, J

FEBRUARY 12, 2018

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Date: 12.02.2018

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