

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

W.P.No.15470 of 2017

ORDER:

In the present writ petition, challenge is to the opening and continuation of Rowdy Sheet against the petitioner.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Home, appearing for Respondents.

3. It is contended by the learned counsel for petitioner that the questioned action is highly illegal, arbitrary, unreasonable, violative of Articles 14 and 21 of the Constitution of India, besides being opposed to the very spirit and object of the Police Standing Order 601. It is the further submission of the learned counsel that in the absence of necessary ingredients of PSO 601, opening of Rowdy Sheet against the petitioner cannot be sustained. It is also the submission of the learned counsel that so far there is only one crime registered against the petitioner under Sections 120-B, 302 read with 34 of IPC and the same is pending trial. It is the further submission of the learned counsel that there is no conviction so far against the petitioner. It is further submitted that the petitioner herein is suffering from various ailments and also underwent cardiac surgery.

4. On the contrary, it is submitted by the learned Government Pleader that there is absolutely no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the petitioner herein is not entitled for any indulgence of this Court under Article 226 of the Constitution of India. It is also the submission of the learned Government Pleader that in view of involvement of the petitioner in a murder case, his activities are required to be watched by continuing the rowdy sheet against him.

5. The opening of Rowdy Sheet against an individual is undoubtedly an action, which affects the life and liberty of an individual. PSO 601 is penal in nature. Therefore, while opening a Rowdy Sheet against an individual, strict adherence to the relevant provisions is mandatory. In this context, it may be appropriate to refer to the judgment of this Court in *M.Malla Reddy v. State of Telangana and others*¹. In the said judgment, while dealing with the issue of opening of Rowdy Sheet and the obligation cast upon the police authorities in the said process, this Court at paragraph 10 held as under:

“Rowdy sheet 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 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 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 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.”

6. In this context, it may also be appropriate to refer to Police Standing Order No.601 and according to the same, the following persons may be classified as Rowdies and Rowdy Sheet may be opened against them.

¹ 2016(1) ALD (CrL.) 591

“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.

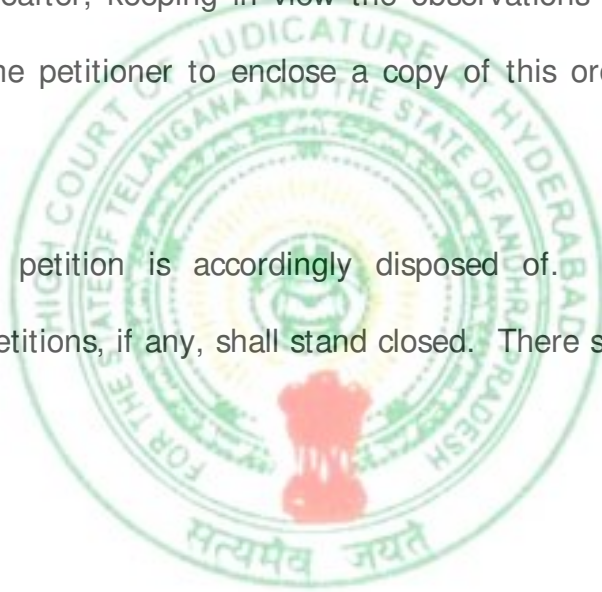
- A) Persons who habitually commit, attempt to commit or abet the commission of, offence involving a breach of the peace, disturbance to public order and security.
- B) Persons bound over under Sections 106, 107, 108 (1) (i) and 110 (e) and (g) of Cr.P.C.
- C) Persons who have been convicted more than 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.”

7. While referring to the above Police Standing Order, it is the submission of the learned counsel for the petitioner that the petitioner herein does not fall under any one of the contingencies as mentioned in the above PSO and as such, in the absence of necessary ingredients, it is not open for the police authorities to continue the rowdy sheet against the petitioner. It is also the

submission of the learned counsel that there is no conviction so far against the petitioner herein. There is no dispute with regard to the same.

8. Therefore, having regard to the submissions of the learned counsel for the petitioner and the learned Government Pleader for Home, this Court deems it appropriate to dispose of the writ petition, leaving it open to the petitioner to submit a representation before the 2nd respondent herein within a period of two weeks from the date of receipt of this order and if any such representation is made by the petitioner, the same be verified and appropriate action be taken strictly in accordance with law, within a period of four weeks thereafter, keeping in view the observations made supra. It is also open for the petitioner to enclose a copy of this order along with the representation.

9. The writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.



A.V.SESHA SAI, J

Date: 3.12.2018

Note:

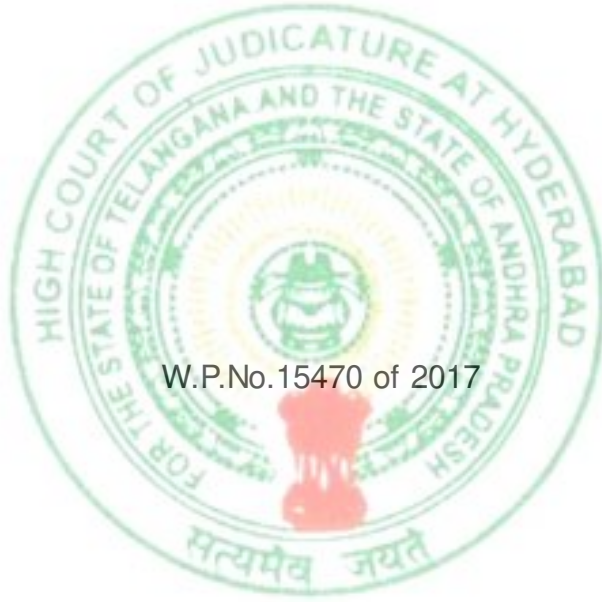
Issue C.C. forthwith.

B/o

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