

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.19142 OF 2017

ORDER:

1. Heard learned Counsel, appearing for the petitioner, and learned Government Pleader for Home, appearing for the respondents and perused the material available on record.

2. In the present Writ Petition, challenge is to the action of the respondent – police authorities in opening and continuing the rowdy-sheet against the petitioner herein.

3. According to the learned counsel for the petitioner, the impugned action of opening and continuing the rowdy-sheet against the petitioner herein is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India, besides being opposed to the very spirit and object of the provisions of Police Standing Orders 601. In elaboration, it is further submitted by the learned counsel for the petitioner that, in the absence of necessary ingredients of clauses (a) to (i) of Police Standing Orders 601, there is absolutely no justification on the part of the respondent - Police authorities in opening and continuing the rowdy-sheet against the petitioner herein.

4. On the other hand, it is submitted by the learned Government Pleader that in view of the involvement of the petitioner herein in Crime Nos.18 and 27 of 2015 and in order to have a watch on his movements, it has become incumbent on the part of the respondent-Police authorities to open a rowdy-sheet against the petitioner herein.

5. In the instant case, as per the counter-affidavit filed by the Sub-Divisional Police Officer, there are two crimes registered against the

petitioner viz., Crime No.18 of 2015; wherein charge sheet was filed on 22.02.2015 arraying the petitioner as Accused No.1 and the same is pending on the file of the Court of Judicial First Class Magistrate, Bhimadole, West Godavari District, dated 19.08.2017, and in Crime No.27 of 2015, charge sheet was filed on 21.02.2015 arraying the petitioner as Accused No.6 and the same is pending vide P.R.C. No.15 of 2016 on the file of the Court of Judicial First Class Magistrate, Bhimadole, West Godavari District.

6. The provisions of Police Standing Orders 601 are penal in nature, as such, strict adherence to the mandatory requirements, as stipulated therein, is necessary. Unless the necessary ingredients of Clauses (a) to (i) of the Police Standing Orders 601 do exist in a given case, a rowdy-sheet cannot be opened against an individual in a casual and mechanical manner, otherwise, the same tantamount to invasion into the fundamental right guaranteed to a citizen under Article 21 of the Constitution of India.

7. In this context, it may be appropriate to refer to a judgment of this Court in ***M. Malla Reddy Vs. State of Telangana and others***¹. Para 10 of the said judgment reads as under:-

“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 sacred obligation to discharge their duties keeping in view the object and intention behind the said laws

¹ 2016 (1) ALD (CrI.) 591

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, assessed and adjudicated in the light of the above issued.”

8. In the considered opinion of this Court, the justification sought to be offered by the learned Government Pleader for sustaining the impugned action cannot be sustained in the eye of law and as observed *supra*, unless the necessary ingredients of clauses (a) to (i) of Police Standing Orders 601 are present in a given case, the rowdy-sheet cannot be opened.

9. Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it appropriate to dispose of the Writ Petition, leaving it open for the petitioner herein to submit a representation/application before the 3rd respondent/Sub-Divisional Police Officer, requesting for deletion of his name from the rowdy-sheet, within a period of ten days from the date of receipt of a copy of this Order. If any such representation/application is made, within the stipulated time, the same shall be considered and appropriate orders be passed/appropriate action be taken, strictly in accordance with law, and keeping in view the observations made *supra*, within a period of six weeks thereafter.

10. Accordingly, the writ petition is disposed of. No costs.

11. Miscellaneous petitions, if any pending, shall also stand disposed of in consequence.

A.V.SESHA SAI, J

Date: 24.12.2018.
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