

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

W.P.No.33140 of 2018

ORDER:

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.

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

3. According to the learned counsel for the petitioner, the very opening of Rowdy Sheet against the petitioner herein and continuation of the same is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India besides opposed to the very provision of Police Standing Order No.601. In elaboration, it is submitted by the learned counsel that unless the necessary ingredients of Police Standing Order 601 do exist, the Rowdy Sheet cannot be opened against the citizen in a mechanical and casual manner. It is also the submission of the learned counsel that there is no conviction against the petitioner herein so far and except one case there is no other case registered against the petitioner herein.

4. On the other hand, it is submitted by the learned Government Pleader that in order to have a watch on the movements of the petitioner herein in view of his involvement in crime in FIR.No.124 dated 25.07.2016, the respondent authorities have opened the rowdy sheet against the petitioner.

5. The provisions pertaining to the opening of Rowdy Sheet are penal in nature, as such, strict adherence to the mandatory requirements is

indispensable and essential. Unless the necessary ingredients of Clauses A to I of Police Standing Order 601 do exist in a given case, rowdy sheets cannot be opened against the citizens otherwise it amounts to invasion into the fundamental right guaranteed by the Constitution of India under Article 21. In this context, it may be appropriate to refer to the Judgment of this Court in W.P.Nos.7733 and 10421 of 2015, dated 27.07.2015 wherein this Court at paragraph 10 held as under:

“10. 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 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. It is required to be noted that so far there is only one case registered against the petitioner herein which is pending trial vide SC.No.53 of 2017, on the file of the Additional District and Sessions Judge, Visakhapatnam.

7. 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 file appropriate application/representation before the second respondent for redressal of his grievance within a period of ten days from the date of receipt of a copy of this order and if any such representation is made by the petitioner herein, the second respondent to consider the same and take action/pass appropriate orders, strictly in accordance with law, within a period six weeks from the date of receipt of such representation. Pending consideration of such representation, the interim order granted earlier on 14.09.2018 shall continue. 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:24.12.2018
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.33140 of 2018

Dated: 24.12.2018

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