

HON'BLE SRI JUSTICE A.V.SESHA SAI

Writ Petition No.37579 of 2018

ORDER:-

In the present Writ Petition, the petitioner herein is seeking to set aside the rowdy-sheet opened against him.

2. According to the learned Counsel for the petitioner, the action on the part of the respondent-police authorities in opening and continuing the rowdy-sheet against the petitioner 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 the Police Standing Orders 601. It is further submitted by the learned Counsel for the petitioner that in the absence of the necessary ingredients of Police Standing Orders 601, there is no justification on the part of the respondent-police authorities in opening the rowdy-sheet against the petitioner herein. It is also the submission of the learned Counsel for the petitioner that so far there is no conviction against the petitioner herein and the crimes registered against the petitioner herein are based on the civil disputes.

3. On the contrary, it is maintained by the learned Government Pleader that there is absolutely no illegality in the impugned action and the respondent-police authorities having regard to the pendency of the criminal cases against the petitioner herein are perfectly justified in opening and continuing the rowdy-sheet against the petitioner herein.

4. According to the petitioner, he is a practicing Lawyer at Shadnagar, Mahabubnagar, for the last 24 years and his son and daughter are also practicing Advocates at Shadnagar, and one son

is a Government Employee. According to the petitioner, there are two criminal cases pending against him viz., Cr.No.411/2015 on the file of Shadnagar Police Station for the alleged offences under Sections 33, 353 and 379 I.P.C., and Cr.No.66/2015 on the file of Bahadurpura Police Station for the offence under Section 302 I.P.C. It is the further case of the petitioner herein that the police implicated the petitioner in Cr.No.66/2015 on the allegation that the petitioner herein harbored the offenders of the crime.

5. Police Standing Order 601 is penal in nature. Therefore, strict adherence to the mandatory requirements of the said provision is mandatory while considering a case of the individual for inclusion in the rowdy-sheet. The authorities are required to exercise the said discretion with lot of care, caution and circumspection. Unless the necessary ingredients of clauses (a) to (i) of the Police Standing Order 601 do exist, a rowdy-sheet cannot be opened and continued against an individual, otherwise the same would infringe the fundamental rights guaranteed to a citizen under Article 21 of the Constitution of India.

6. In the instant case, it is the categorical case of the writ petitioner herein that so far he has not suffered any conviction and only two criminal cases are pending against him. It is also brought to the notice of this Court by the learned Counsel appearing for the petitioner that the petitioner herein submitted a representation to the respondents herein on 26.05.2018, explaining all the above aspects and requested them to delete his name from the rowdy-sheet, but no action has been taken.

7. Having heard the learned Counsel appearing for the petitioner and the learned Government Pleader, and as the representation of

the petitioner herein is also pending consideration before the respondents including the 3rd respondent herein, this Court deems it appropriate to dispose of the Writ Petition, with a direction to the 3rd respondent herein to consider the application of petitioner herein, dated 26.05.2018, and pass appropriate orders/take appropriate action, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this Order, strictly in accordance with law and the observations made supra.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

Date: 30.11.2018
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A.V.Sesha Sai, J