

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.40822 of 2018

ORDER:-

Heard learned Counsel for the petitioners and the learned Government Pleader for Home for the petitioners.

2. In the present Writ Petition challenge is to the action of the respondents in opening and continuing the rowdy-sheet against the petitioners herein. According to the petitioners, they are all agriculturists and their sole avocation is cultivation.

3. It is contended by the learned Counsel for the petitioners that the questioned action 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 the further submission of the learned Counsel for the petitioners that there is no order of conviction so far against anyone of the petitioners herein and there are no ingredients of Clauses of Police Standing Order 601 and in the absence of the same, the very opening of the rowdy sheet against the petitioners herein is impermissible. In support of his submissions and contentions, learned Counsel for the petitioners relies upon a judgment of this Court reported in M.MALLA REDDY v. STATE OF TELANGANA AND OTHERS ¹.

4. On the other hand, it is submitted by the learned Government Pleader that in view of the involvement of the petitioners herein in criminal cases, it has become incumbent on

¹ 2016(1) ALD (CrL.) 591

the part of the Police authorities to open the rowdy sheet in order to have a close watch on their movements and to curtail their unlawful activities. It is also the submission of the learned Government Pleader that after review of the cases, the rowdy sheets opened against the petitioners herein have been decided to be retained up to 31.12.2018.

5. The provisions of Police Standing Order 601 are penal in nature. As such, strict adherence to the mandatory requirements of the said provisions of law is essential while opening a rowdy sheet against an individual which undoubtedly curtail the freedom of an individual. Any deviation from the said adherence would undoubtedly lead to transgression of fundamental rights guaranteed under Article 21 of the Constitution of India. While dealing with the opening of rowdy-sheets, this Court in M.Malla Reddy's case (referred to supra), at para 10, held 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 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.”

6. In the instant case, as per the counter affidavit, so far there three criminal cases registered against the petitioners herein. They are 1) Cr.No.23/2016 registered against the petitioners 1 to 4 herein along with others under Sections 143, 449 and 302 r/w 149 I.P.C., 2) Cr.No.185/2017 under Section 110(3) Cr.P.C., where the petitioners herein were bound over to keep good behaviour by the Mandal Executive Magistrate, Piduguralla, vide M.C.No.27/2017; and 3) Cr.No.187/2018 is registered against the 3rd petitioner herein.

7. Cr.No.23/2016 is pending trial vide S.C.No.552/2016 on the file of X-Additional District and Sessions Judge, Guntur. Cr.No.187/2018 registered against the 3rd petitioner herein is pending trial vide C.C.No.157/2018 on the file of the Junior Civil Judge Court, Piduguralla. It is also not the case of the petitioners herein that the petitioners herein have suffered any conviction order so far. In the counter affidavit, it is stated that in view of the involvement of the petitioners herein in the crimes referred to supra and in order to have a close watch on their activities, rowdy sheets opened against the petitioners are being continued.

8. In the considered opinion of this Court, the said aspect alone cannot be the criteria for continuing the rowdy sheet against the citizens. As observed supra, strict adherence to the provisions of Police Standing order 601 is imperative while opening the rowdy sheet against the citizens. Otherwise, the same undoubtedly infringes the fundamental right to life, guaranteed under Article 21 of the Constitution of India.

9. Having heard the learned Counsel for the petitioners and the learned Government Pleader, this Court deems it appropriate to dispose of the Writ Petition, leaving it open for the petitioners herein to file an appropriate application before the 4th respondent, requesting for deletion of their names from the rowdy-sheet, within a period of ten days from the date of receipt of a copy of this Order. If any such application/s is/are made, the same be considered and appropriate Orders be passed/appropriate action be taken, strictly in accordance with law, and keeping in view of the observations made supra, within a period of four weeks thereafter.

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

A.V.Sesha Sai, J

Date: 11.12.2018
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