

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.44727 of 2018

ORDER:-

Heard learned Counsel appearing for the petitioner and learned Government Pleader for Home for the State of Telangana for the respondents.

2. In the present Writ Petition challenge is to the action of the respondents in opening and continuing the rowdy-sheet against the petitioner herein.

3. According to the learned Counsel for the petitioner, the impugned action on the part of the respondent-authorities 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 Order 601. It is further submitted by the learned Counsel for the petitioner that there are absolutely no ingredients of Clauses of Police Standing Order 601 in the present case and as such the continuation of the rowdy-sheet opened against the petitioner herein is impermissible.

4. On the other hand, it is submitted by the learned Government Pleader that only in order to have a watch on the movements of the petitioner herein, the rowdy-sheet is being continued.

5. The provisions of Police Standing Order 601 are penal in nature, as such, strict adherence to the mandatory requirements, as stipulated therein, is necessary. Unless the ingredients of Police Standing Order 601 do exist in a given case, a rowdy-sheet cannot be opened in a routine manner. Otherwise, the same tantamounts to invasion into the fundamental right guaranteed under Article 21 of the Constitution of India.

6. In the instant Writ Petition, the case of the petitioner herein is that only one crime was registered against the petitioner herein and the same also ended in acquittal vide S.C.No.113/2011 on the file of the Court of the XI-Additional District and Sessions Judge, R.R.District, by way of judgment, dated 02.12.2011. It is also submitted by the learned Counsel for the petitioner that after registration of the said crime, no other crime has been registered against the petitioner herein so far nor there is any conviction against him. As rightly pointed out by the learned Counsel for the petitioner that unless necessary ingredients of Police Standing Order 601 are present in a given case, a rowdy-sheet cannot be opened. In this context, it may be appropriate to refer to a judgment of this Court in M.MALLA REDDY v. 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 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

¹ 2016(1) ALD (Crl.) 591

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.”

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 an appropriate application before the 3rd respondent, requesting for deletion of his name from the rowdy-sheet, within a period of one week from the date of receipt of a copy of this Order. If any such application is made, the same be considered and appropriate Orders be passed/appropriate action be taken, strictly in accordance with law, and keeping in view the observations made supra and this exercise shall be completed within one month from the date of submission of the application by the petitioner herein.

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

Date: 18.12.2018
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A.V.Sesha Sai, J