

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.44755 of 2018

ORDER:-

The present Writ Petition challenges the action on the part of the respondent-Police authorities in opening and continuing the rowdy-sheet against the petitioners herein.

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

According to the learned Counsel for the petitioners the very opening of the rowdy-sheet and continuation of the same against the petitioners herein is patent violation of Articles 14 and 21 of the Constitution of India and the said action is highly illegal and arbitrary and not in consonance with the provisions of Police Standing Order 601.

On the other hand, it is submitted by the learned Government Pleader that in view of the involvement of the petitioners herein in criminal case, which has become incumbent on the part of the police authorities to open the rowdy-sheet and in order to have a watch on the movements of the petitioners herein, the rowdy-sheet is being continued.

The provisions, pertaining to opening of rowdy-sheet are penal in nature, as such strict adherence to the said provisions is mandatory. Unless necessary ingredients are conspicuously present, a rowdy-sheet cannot be opened in a routine and casual manner. While dealing with the opening of rowdy-sheets, this

Court in M.Malla Reddy v. State of Telangana and others ¹ 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.”

In the instant case, according to the petitioners, only one crime was registered against the petitioners herein, which also ended in compromise by way of Order, dated 18.07.2018, in CrI.P.No.6570 of 2018. A copy of the said Order is also filed along with the Writ Petition as material paper.

Having heard the learned Counsel for the petitioners and the learned Government Pleader, this Court deems it appropriate to

¹ 2016(1) ALD (CrI.) 591

dispose of the Writ Petition, leaving it open for the petitioners herein to file an appropriate application before the 2nd respondent, requesting for deletion of their names 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/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 one month from the date of submission of the application/s by the petitioners herein.

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

Date: 18.12.2018
smr



A.V.Sesha Sai, J