

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

WRIT PETITION No.45607 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Home, apart from perusing the entire material available on record.

This Writ Petition challenges the validity and the legal sustainability of the action of the respondents in opening and continuing rowdy sheet against the petitioner herein.

It is submitted by the learned counsel for the petitioner that the impugned action, on the part of the respondent authorities, is highly illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India. In elaboration, it is further submitted by the learned counsel for the petitioner that the impugned action is also opposed to the very spirit and object of the Police Standing Orders, 601. It is the further submission of the learned counsel that crime registered against the petitioner herein in the year, 1995 also ended in acquittal and there is no involvement of the petitioner herein in any crime thereafter and there is no conviction so far against the petitioner herein and the very continuation of the rowdy sheet is impermissible under the Police Standing Orders, 601.

On the other hand, it is submitted by the learned Government Pleader that, in view of the involvement of the

petitioner in the crimes earlier and in order to have a watch on his movements it has become incumbent on the part of the respondent-police authorities to continue rowdy sheet against the petitioner herein.

The provisions, pertaining to the opening of rowdy sheets, are penal in nature and, therefore, strict adherence to the mandatory requirements is essential. Unless, the necessary ingredients of Clauses (a) to (i) of the Police Standing Orders, 601 do exist, in a given case, rowdy sheet cannot be opened and continued in a mechanical and casual manner. Otherwise, the action undoubtedly invades into the fundamental right guaranteed to a citizen under Article 21 of the Constitution of India.

While dealing with opening and continuing the rowdy sheet, under Police Standing Orders, 601, this Court, in ***M.Malla Reddy v. State of Telangana and others***¹ at paragraph No.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

¹ 2016(1) ALD (CrI.) 591

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, it is the categorical case of the petitioner herein that the only case registered against the petitioner herein ended in acquittal and there is no conviction against the petitioner herein so far. The justification sought to be offered by the learned Government Pleader that in order to have a watch on the movements of the petitioner herein in view of the involvement of the petitioner herein in the crime earlier, the rowdy sheet is being continued, in the considered opinion of this Court, cannot be sustained in the eye of law unless the mandatory requirements of the Police Standing Orders, 601 do exist.

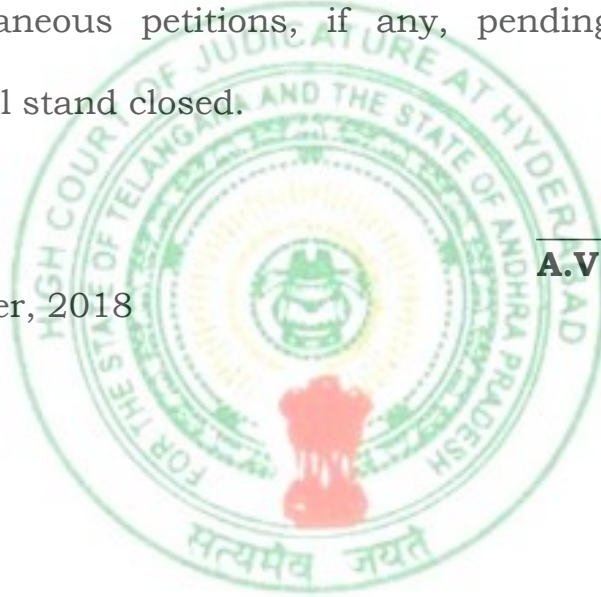
Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it appropriate to dispose of the Writ Petition, leaving it open for the petitioner herein to make a representation, within a period

of one week from the date of receipt of a copy of this order, to the Deputy Commissioner of Police/competent authority and with a further direction to the Assistant Commissioner of Police to pass appropriate orders/take appropriate action, strictly in accordance with law, including the observations made supra, within a period of one month thereafter.

Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

20th December, 2018
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A.V. SESA SAI, J