

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.46418 of 2018

ORDER:-

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

2. In the present Writ Petition challenge is to the action of the respondent-Police authorities in opening and continuing the rowdy-sheet bearing No.224-B against the petitioner herein on the file of Old Guntur Police Station, Guntur District. According to the petitioner, he submitted a representation/application to the 2nd respondent on 27.08.2018 but no action has been taken so far on the same.

3. According to the learned Counsel for the petitioner, the impugned 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 Order 601. In elaboration, it is further submitted by the learned Counsel that the Police authorities grossly erred in opening the rowdy-sheet in the absence of necessary ingredients of Police Standing Order 601. It is further submitted that there is no conviction so far against the petitioner herein.

4. On the other hand, it is submitted by the learned Government Pleader that the rowdy-sheet is being continued against the petitioner herein only for the purpose of keeping a watch on the movements of the petitioner herein in view involvement of the petitioner herein in the criminal case.

5. The provisions, pertaining to opening of rowdy-sheet are penal in nature, as such strict adherence to the said provisions is mandatory and essential. In the instant case, according to the petitioner, he is a physically challenged person suffering with 52% disability and lost his both lower limbs in the year 2013. It is also evident from the material on record that earlier basing on the complaint of one Smt.Venkayamma, Cr.No.392 of 2011 was registered against the petitioner herein for the alleged offences under Sections 307, 323 and 450 of I.P.C. on the file of Lalapet Police Station, and the same was numbered as S.C.No.118/2012 on the file of the Court of the IV-Additional Assistant Sessions Judge, Guntur, and the learned Judge by way of judgment, dated 23.07.2012, found the petitioner herein guilty of the offence under Section 323 I.P.C. It is stated in the affidavit filed in support of the Writ Petition that aggrieved by the said conviction order, the petitioner herein along with his brother and mother filed Criminal Appeal No.251/2012 on the file of the II-Additional District and Sessions Judge, Guntur, and the said Appeal was allowed on 03.10.2012 by the learned District Judge. While referring to the same, it is submitted by the learned Counsel for the petitioner that despite the said acquittal Order, the rowdy-sheet is being continued against the petitioner herein in an arbitrary and illegal manner by the respondents herein. 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 wherein this Court at para 10 held as under:-

¹ 2016(1) ALD (CrL.) 591

“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. The justification sought to be offered on behalf of the respondents that in view of the involvement of the petitioner herein in a crime, rowdy-sheet is being continued against the petitioner herein to keep a watch on his movements, in the considered opinion of this Court cannot be sustained unless in a given case the necessary ingredients of Police Standing Order 601 do exist.

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 submit a representation/application, afresh, to the competent authority, requesting for deletion of his name from the rowdy-sheet, within a period of ten days from the date of receipt of a copy of this order and if any such representation/application is filed before the competent authority, the same be considered and appropriate orders be passed/appropriate action be taken, strictly in accordance with law, and in the light of 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.

Date:21.12.2018
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A.V.Sesha Sai, J

