

HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.46844 of 2018

ORDER:

In the present Writ Petition the challenge is to the action on the part of the Police authorities in opening and continuing the rowdy-sheet against the petitioner herein.

Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the respondents and perused the material available before the Court.

According to the learned counsel for the petitioner, the impugned action of opening and continuing the rowdy-sheet against the petitioner herein 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 Police Standing Orders 601. In elaboration, it is further contended by the learned counsel that in the absence of the necessary ingredients of the Police Standing Orders 601, the impugned action on the part of the respondents herein cannot be approved.

On the contrary, it is submitted by the learned Government Pleader that in order to keep a watch on the movements of the petitioner herein in view of his involvement in a criminal case, it has become incumbent on the part of the respondent Police authorities to open a rowdy-sheet against the petitioner herein and to continue the same in public interest.

The provisions pertaining to the opening of rowdy-sheet are ordeal in nature. As such, strict adherence to the mandatory requirements is essential and indispensable. Unless the necessary ingredients of Clauses-(a) to (i) of Police Standing Orders 601 are do exist in a given case, a rowdy-sheet cannot be opened in a casual and mechanical manner, otherwise the same would tantamount to invasion into the fundamental right of a citizen under Article-21 of the Constitution of India.

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 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.”

¹ 2016(1) ALD (Cr.) 591

Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it appropriate to dispose of the Writ Petition keeping it open to the petitioner herein to submit an appropriate application/representation before respondent No.3 herein within a period of two weeks from the date of receipt of a copy of this order with a request to delete his name from the rowdy-sheet and if any such application is made within the time stipulated, the same may be considered and appropriate order may be passed and action taken in accordance with law and in the light of the observations made supra within a period of six weeks thereafter.

26th December, 2018
dr

JUSTICE A.V.SESHA SAI

