

**THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**

**W.P.No.13723 of 2022**

**ORDER**

This writ petition is filed with the following prayer;

“to issue a writ, order or direction more particularly one in the nature of writ of mandamus by declaring the action of the official respondent Nos.1 to 5 more particularly respondent No.3 in not closing the rowdy sheet opened against the petitioner in connection with C.C.No.11673 of 2019 which is pending on the file of VII Additional Chief Metropolitan Magistrate, Hyderabad at Nampally, in the light of his written complaint dated 03.03.2022 and also in view of the law laid down by the Honourable High Court in W.P.No.19194 of 2012, as arbitrary, discriminatory, dereliction of duty, hand handed, ex facie illegal and also violation of Article 14 of the Constitution of India and consequently direct respondent No.3 to consider the petitioner’s written complaint dated 03-03-2022 in connection with C.C.No.11673 of 2019 pending on the file of VII Additional Chief Metropolitan Magistrate, Hyderabad at Nampally, in the interest of justice’.

2. Learned counsel for the petitioner Mr. Habeeb Abubakar Al Hamed submits that initially, three cases were registered against the petitioner i.e., Cr.No.205 of 2013, Cr.No.86 of 2014 and Cr.No.158 of 2014 for the same offences under Section 324 read with 34 IPC and all these cases were compromised before the Lok Adalath in the year 2016 itself. He submits that another case in Cr.No.65 of 2019 was registered against the petitioner for the offences under Sections 342, 324, 384, 506 read with 34 IPC and after completion of investigation, the police have filed the charge sheet and the same is numbered as C.C.No.11673 of 2019 on the file of VII Additional Chief Metropolitan

Magistrate, Hyderabad at Nampally. He submits that basing on the said case, a rowdy sheet was opened in the year 2019. Learned counsel submits that in view of the law laid down by this Court in W.P.No.19194 of 2012 dated 24-08-2015, basing on one solitary crime, the respondent police cannot open a rowdy sheet against the petitioner. He further submits that thereafter no case is registered against the petitioner and still they are continuing and reviewing the same every year contrary to the Police Standing Orders. He also relied on the judgments of the Hon'ble Apex Court in *Dhanji Ram Sharma v. Superintendent of Police, North District Delhi Police*<sup>1</sup>, *Vijay Narain Singh v. State of Bihar*<sup>2</sup> and the judgment of the High Court of Andhra Pradesh in *Umesh Singhaniya v. The Commissioner of Police, Hyderabad*<sup>3</sup>. Learned counsel submits that maintaining of rowdy sheet is governed by Standing Order 601 of the A.P. Police Manual, Part-I, Volume II. Standing Order 601 deals with the period of retention of history sheets or suspects and Standing Order 742 deals with classification of rowdies and opening of rowdy sheets. He submits that continuation of rowdy sheet against the petitioner is contrary to the Police Standing Orders and it violates the liberty of the petitioner.

3. Learned Assistant Government Pleader for Home Mr. A. Manoj Kumar, basing on the counter averments, submits that to curb and curtail the unlawful activities of the petitioner in the vicinity of

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<sup>1</sup> AIR 1966 SC 1766

<sup>2</sup> AIR 1984 SC 1334

<sup>3</sup> 2013 (3) ALT 146

Kanchanbagh Police Station, after obtaining permission from the Assistant Commissioner of Police, Kanchanbagh Division, a rowdy sheet was opened against the petitioner on 24-12-2019 and the same is being continued and renewed from time to time. He submits that when the petitioner is facing trial in C.C.No.11673 of 2019 and unless and until a full-fledged trial is conducted by the trial Court, rowdy sheet cannot be closed against him and hence, the writ petition is liable to be dismissed.

4. Opening of a rowdy sheet is governed by Standing Order 601 of the A.P. Police Manual, Part I which reads as under:

"601. The following persons may be classified as rowdies and Rowdy Sheets (Form 80) may be opened for them under the orders of the SP/DCP and ACP/SDPO.

- A. Person who habitually commit, attempt to commit or abet the commission of offences involving a breach of the peace, disturbance to public order and security.
- B. Persons bound over under Sections 106, 107, 108(1)(i) and 110(e) and (g) of Cr.P.C.
- C. Persons who have been convicted more than once in two consecutive years under Sections 59 and 70 of the Hyderabad City Police Act or under Section 3, Clause 12 of the A.P. Towns Nuisances Act.
- D. Persons who habitually tease women and girls and pass indecent remarks.
- E. Persons who intimidate by threats or use of physical violence or other unlawful means to part with movable or immovable properties or in the habit of collecting money by extortion from shopkeepers, traders and other residents.
- F. Persons who incite and instigate communal / caste or political riots.

- G. Persons detained under the "A.P. Prevention of Dangerous Activities of Bootlggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986" for a period of six months or more.
- H. Persons who are convicted for offences under the Representatives of the Peoples' Act for rigging and carrying away ballot paper, boxes and other polling material."

Retention of history sheets of suspects / rowdies is governed by Standing Order 602 which reads a under:

1. History sheets of suspects shall be maintained from the date of registration up to the end of December after which the orders of a gazette officer as to their discontinuance or retention for a further period shall be obtained.
2. Merely because a suspect / rowdy, having a history sheet, is not figuring as accused in the previous five years after the last case in which he was involved, it should not preclude the SP/DCP/CP to continue his history sheet if SP/DCP/CP I of the considered view that his activities are prejudicial to the maintenance of public order or one affecting peace and tranquillity in the area or the victims are not coming forward to give complaint against him on account of threat from him."

Standing Order 742 reads as under:

1. The following persons may be classified as rowdies and Rowdy Sheets (Form 88) may be opened for them under the order of the Superintendent of Police or Sub-Divisional Officer:
  - a) Persons who habitually commit, attempt to commit or abet the commission of offences involving a breach of the peace.
  - b) Persons bound over under Sections 106, 107, 108(c) and 110(1) of the Code of Criminal Procedure, 1973 (Act NO. 2 of 1974)
  - c) Persons who have been convicted more than once in two consecutive years under Section 75 of the Madras City Police Act or under Section 75 of the Madras City Police Act or under Section 3, Clause 12 of the Towns Nuisances Act.
  - d) Persons who habitually tease women and girls by passing indecent remarks or otherwise, and
  - e) In the case of rowdies residing in an area under one Police Station but are found to be frequently visiting the area under one or

more other Police Stations their rowdy sheets can be maintained at all such policed stations (G.O.Ms.NO. 656, Home (Police-D) Dept. Dt 08.04.1971).

2. Instructions in Order 735 regarding discontinuance of History Sheets shall also apply to Rowdy Sheets."

Standing Order 601 of the A.P. Police Manual makes it clear that the rowdy sheet can be maintained against the persons, who habitually commit, attempt to commit or abet the commission of offences involving breach of peace, disturbance to public order and security and the condition precedent for opening a rowdy sheet is that the police must necessarily believe that the petitioner is a habitual offender and there should be a reasonable belief that there are crimes existing as per the orders and once rowdy sheet is opened, they can maintain the same from the date of registration up to the end of December after which the orders of a Gazetted Officer as to their discontinuance or retention for a further period shall be obtained. Further, if the person is not figured as accused in the previous five years, after the last case in which he is involved, it should not preclude the police from continuing the history sheet if they are of the opinion that his activities are prejudicial to the maintenance of public order or one affecting peace and tranquillity. Now, as per Standing Order 742, if they have to continue the rowdy sheet, it has to be reviewed and if they reasonably believe that continuation of history sheet / rowdy sheet is required, they have the power to do so, but in majority of cases, once a rowdy sheet is opened, the respondents without reviewing it, continuing it for years together.

5. This Court in *K. Suresh Babu v. Superintendent of Police, Anantapur District*<sup>4</sup> following the earlier decisions in *Kamma Bapuji v. Station House Officer, Brahmasamudram* (1997(6) ALD 583) and *Puttagunta Pasi v. Commissioner of Police, Vijayawada* (1998(3) ALT 55(DB)) had held that opening of a rowdy sheet in the name of the petitioner on the basis of his involvement in a solitary criminal case was not sufficient to term him a 'habitual offender' under Clause (A) of Order 601.

6. The admitted facts are that initially, three cases were registered against the petitioner in the year 2013 and 2014 and those cases were compromised before the Lok Adalat in the year 2016 and thereafter, another case in Cr.No.65 of 2019 was registered against the petitioner and after filing of the charge sheet, the same is numbered as C.C.No.11673 of 2019 on the file of VII Additional Chief Metropolitan Magistrate, Hyderabad at Nampally and the same is pending. Thereafter, no crime is registered and nothing has been stated in the counter-affidavit what is the basis for opening the rowdy sheet and to continue the same basing on a solitary crime without there being any crime registered thereafter. In view of the law laid down by the Hon'ble Apex Court and this Court, it is apparent that the respondents failed to follow the Police Manual and in a mechanical manner, they are continuing the rowdy sheet without any basis.

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<sup>4</sup> 2015 (6) ALT 556

7. Accordingly, the Writ Petition is allowed and the respondents are directed to close the rowdy sheet of the petitioner within a period of three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

8. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

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**SMT LALITHA KANNEGANTI, J**

1<sup>st</sup> August, 2022.

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