

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

WRIT PETITION No.19815 of 2023

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following prayer;

"....pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of Respondents Nos.2 to 4 in opening the Rowdy sheet No.10 against the petitioner as illegal, arbitrary and violative of A.P Police Standing Order 742 and contrary to the Principles of natural justice and consequently set aside the same by directing the respondent Nos.2 to 4 to close the Rowdy sheet No.10 against the petitioner...."

2. Grievance of the petitioner is that a rowdy sheet was opened as against him for the reason that a case has been registered against him in Crime No.45 of 2000 for the offence punishable under Section 376 (g) I.P.C of Epurupalem Rural Police Station. Police, after conducting investigation, filed charge-sheet in the Court of the Additional Sessions Judge, Chirala, which was numbered as S.C.No.87 of 2001 and the same was ended in acquittal. Another case has been registered as against the petitioner in Crime No.9 of 2015 of Epurupalem Rural Police Station, for the offences punishable under Section 379 of I.P.C and Section 3 of the Prevention of Destruction of Public Property. Police, after conducting investigation, filed charge-sheet, and the same is numbered as C.C.No.48 of 2015 on the file of the Additional Junior

Civil Judge Court, Chirala, after a full-fledged trial the said case ended up in acquittal on 25.02.2016. It is further stated that except the said case, no other case was registered or pending against the petitioner herein in any Police Station.

3. A counter has been filed by the respondent No.2 stating that the petitioner herein was acquitted in S.C.No.87 of 2001 and C.C.No.48 of 2015, vide Judgments dated 31.07.2001, 25.02.2016 respectively. It is further stated that, to curb and curtail the unlawful activities of the petitioner herein in the vicinity, the Respondent No.3 opened Rowdy sheet against the petitioner herein.

4. Heard. Perused the material on record.

5. According to the petitioner, at present, there are no cases pending against him.

6. It is further stated that as per APPM Order No.601, the following persons may be classified as rowdies and rowdy sheets may be opened against them under the orders of the SP/DCP and ACP/SDPO.

“1. Persons, who habitually commit, attempt to commit or abet the commission of offences involving a breach of the peace, disturbances to public order and security.

2. Persons bound over under Sections 106, 107, 108(1) and 110(e) and (g) of Cr.P.C.

3. 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 AP Town Nuisances Act.

4. Persons who habitually tease women and girls and pass indecent remarks including offences under Sections 354-A, B, C and 354-D IPC.

5. Persons who have been charge sheeted under the offence of Rape (376, 376-A, B, C, D and E IPC).

6. Persons who have been charge sheeted under the offences of POCSO Act, 2012 and Acid Attacks (326A and 326B of IPC).

7. Rowdy sheets for the rowdies residing one police station area but found frequenting the other police stations area, can be maintained at all such police stations.

8. 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 including 'loan sharks'.

9. Persons who incite, instigate and participate in communal/caste or political riots.

10. Persons detained under the AP Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 for a period of 6 months or more.

11. Persons on whom charge sheets filed under the offence of assault on public servants, under Arms Act and such other offences punishable with imprisonment of 2 years or more.

12. Persons on whom charge sheets filed under the offence of murder and attempt to murder (302 and 307 IPC).

13. Persons on whom charge sheets filed under the offence of chain snatching.

14. Persons who are convicted under the Representation of People Act, 1951 for rigging, carrying away, damaging ballot paper, boxes and polling material.”

Standing Order 602 (2) stipulates that merely because a suspect/rowdy having a history sheet is not figuring as accused in the previous 5 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/SP is of the considered view that his activities are prejudicial to the maintenance of public order or one affecting peace and tranquility in the area or the victims are not coming forward to give complaint against him on account of threat from him.

7. As on today, there are no cases pending against the petitioner herein. It is not the case of the respondent police that the petitioner has been shown as accused in any other case or he was directed to bind over under Section 107 Cr.P.C. Going by the Police Standing Order No.601, the petitioner would not come within the purview of any of the clauses mentioned therein. Clause 1 of Police Standing Order No.601 contemplates that rowdy sheets may be opened against the

persons, who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace, disturbances to public order and security. In the present case on hand, there are no cases pending against him. By virtue of the same, it can safely be inferred that the petitioner herein would not come within the purview of habitual offender. It is not the case of the respondent-police, nor is there any material to show, that the activities of the petitioner are prejudicial to the maintenance of public order or affecting peace and tranquility in the area or that he is threatening the victims from giving complaint against him. Neither he abetted the commission of offences involving breach of peace nor he was responsible for causing disturbances to public order or security. When such is the case, continuation of rowdy sheet against the petitioner herein would amount to abuse of process of the Court.

8. In view of the aforesaid facts and circumstances of the case, the Writ Petition is allowed and the impugned rowdy sheet opened against the petitioner herein is hereby set aside. There shall be no orders as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

K. SREENIVASA REDDY, J.

Date:25.09.2023
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