

TELENGANA HIGH COURT**Bench: JUSTICE C.V.BHASKAR REDDY****Date of Decision: 29 September 2023**

WRIT PETITION No.11577 of 2023

Mothukuri Yerraiyah YerrababuPertitioner**Versus****State of TelenganaRespondent****Section, Acts, Rules, and Article:**

Section 107 of the Code of Criminal Procedure, 1973

Sections 294(b), 324, 353, 506, 427, 452, 143, 147, 148, 149, 34 IPC

Clause (A) of Order 601 of A.P.Police Manual

Article 14, 19, and 21 of the Constitution of India

Subject: Declaration of the legality of keeping a rowdy sheet open against the petitioner, challenging the action of respondents as illegal, arbitrary, and violative of Articles 14, 19, and 21 of the Constitution of India. The petitioner seeks the closure of the rowdy sheet.

Headnotes:

Rowdy Sheet - Legality of keeping rowdy sheet open against the petitioner - Petitioner's challenge to the action of respondents - Allegation of the action being illegal, arbitrary, and violative of Articles 14, 19, and 21 of the Constitution of India - Petition seeks closure of the rowdy sheet. [Para 1-2]

Background - Four criminal cases registered against the petitioner - Two cases resulted in binding over, and two cases are pending trial - Rowdy sheet opened against the petitioner based on the alleged offences - Petitioner claims that this continued surveillance causes inconvenience and hardship in leading a respectable life. [Para 2]

Evaluation - Examination of the petitioner's criminal history - Bound over cases from 2013 and 2015, pending trial cases from 2018 and 2019 - Consideration of the long interval between registration of the cases. [Para 5]

Lack of Allegations - Absence of allegations regarding breach of peace or public tranquility by the petitioner after opening of the rowdy sheet - Basis for opening the sheet is the 2013 and 2015 cases - No conviction in the subsequent cases registered in 2017 and 2019. [Para 7]

Legality of Rowdy Sheet - Discussion on the statutory nature of A.P. Police Standing Orders and their limitations - Emphasis on the serious consequences of opening a rowdy sheet and the protection of the right to reputation under Article 21 of the Constitution. [Para 8]

Insufficiency of Grounds - Finding that there are insufficient grounds to term the petitioner as a "habitual offender" under Clause (A) of Order 601 of A.P. Police Manual - Lack of specific instances of the petitioner's involvement in offences after the opening of the rowdy sheet. [Para 9]

Closure of Rowdy Sheet - Directing the respondents to close the rowdy sheet opened against the petitioner - Acknowledgment of the possibility of future actions if the petitioner is involved in any crimes. Petition Allowed. [Para 10]

Referred Cases:

B. SATYANARAYANA REDDY vs. STATE OF ANDHRA PRADESH

ORDER:

This writ petition is filed seeking to declare the action of respondents in not closing the rowdy sheet opened against him as illegal, arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India and to consequently direct the respondents to close the rowdy sheet opened against him.

2. The case of the petitioner is that the police of Dummagudem Police Station had registered four crimes against him for various offences viz., Crime No.59 of 2013 and Crime No.39 of 2015 for the offence punishable under Section 107 Cr.P.C wherein he was bound over for a period of one year; and Crime No.19 of 2017 for the offences punishable under Sections 294(b), 324, 427, 452, 143, 147, 148 read with 149 IPC and Crime No.60 of 2019 for the offences punishable under Sections 353, 506 read with 34 IPC, both of which are pending for trial before the Court of Judicial First Class Magistrate, Bhadradi-Kothagudem vide C.C.No.116 of 2018 and C.C.No.116 of 2018 respectively. It is the further case of the petitioner that basing on the alleged offences, respondent Nos.3 and 4 opened rowdy sheet against him. The main grievance of the petitioner is that the respondents with a *mala fide* intention are continuing the rowdy sheet and due to surveillance, he is facing much inconvenience and hardship to lead a respectable and dignified life in the society.

3. A counter affidavit has been filed by respondent No.3 stating that there was involvement of the petitioner in (i) Crime No.59 of 2013 registered for the offence punishable under Section 107 Cr.P.C, wherein the Special Executive Magistrate, Bhadrachalam bound over the petitioner for good behavior vide M.C.No.02 of 2013 (ii) Crime No.39 of 2015 registered for the offence punishable under Section 107 of Cr.P.C. wherein the Mandal Executive Magistrate bound over the petitioner for good behavior vide M.C.No.08 of 2015 (iii) Crime No.19 of 2017 registered for the offences punishable under Sections 324, 427, 452, 143, 147, 148 read with 149 IPC, which is pending for trial vide C.C.No.116 of 2018 before the Court Judicial Magistrate of First Class, Bhadrachalam; and (iv) Crime No.60 of 2019 registered for the offences punishable under Sections 353, 506 read with 34 IPC and the same is also pending for trial vide C.C.No.482 of 2019 before the Court of Judicial Magistrate of First Class, Bhadrachalam. It is further stated that in view of involvement of the petitioner in the above four criminal cases, a rowdy sheet was opened against him by respondent No.4 as per Standing Order No.601 of A.P. Police Manual. Reference has been made to the Circular No.2172/C13/ SCRB/CID/TS/22 dated 22.07.2022 issued by the Director General of Police, Hyderabad, which prescribes the procedure for opening rowdy sheets against the habitual offenders.

4. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home appearing for the respondents.

5. As seen from the record, it is evident that out of four crimes registered against the petitioner, he was bound over in two cases viz., Crime No.59 of 2013 and Crime No.39 of 2015 and two other crimes are pending for trial vide C.C.No.116 of 2018 and C.C.No.482 of 2019. Thus there is long interval between registration of the bound over cases and the criminal cases which are pending for trial. Moreover, while initiating proceedings for opening of rowdy sheet against the petitioner in the year 2019, the respondents police

have taken into consideration the bound over cases which were registered against the petitioner in the years 2013 and 2015.

6. Further, in **B. SATYANARAYANA REDDY vs. STATE OF ANDHRA PRADESH**, a Division Bench of this Court held that the expressions habitually commit, attempt to commit and abet the commission of offences indicate the requirement that at least two or more cases have been registered against the person concerned to characterize him as a person who habitually commits, attempts to or abets the commission of offences.

7. In the instant case, there is no allegation of commission of offence relating to breach of peace or public tranquility by the petitioner after opening of rowdy sheet. Moreover, the basis for opening of the rowdy sheet against the petitioner is the bound over cases which were registered in the years 2013 and 2015. The subsequent two criminal cases, which are pending for trial, were registered against the petitioner in the years 2017 and 2019 and in none of the cases it is alleged that the petitioner was convicted.

8. A.P. Police Standing Orders were not statutory in nature and were only a compilation of government orders issued from time to time and they therefore did not invest the police officers with any powers of arrest, detention, investigation of crimes etc., not specifically conferred under the Code of Criminal Procedure, 1973, or other enactments. Opening of rowdy sheet against a citizen was undoubtedly fraught with serious consequences and the right to reputation under Article 21 of the Constitution could not be deprived except in accordance with the procedure established by law.

9. Viewed from any angle, there was no sufficient ground to term the petitioner as “habitual offender” under Clause (A) of Order 601 of A.P. Police Manual. Furthermore, the respondents have not given any specific instance of the petitioner’s involvement in commission of offence subsequent to the opening of the rowdy sheet.

10. Therefore, the respondents police are directed to close the rowdy sheet opened against the petitioner. It is needless to observe that if the petitioner involves in any crime in future and if there is any sufficient material to establish that his movements are required to be prevented, the respondents police are at liberty to take action against him strictly in accordance with the Standing Orders of A.P. Police Manual.

Accordingly, this Writ Petition is allowed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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