

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**Writ Petition No.5957 of 2021****ORDER:**

This Writ Petition under Article 226 of the Constitution of India is filed seeking mandamus declaring the action of respondents 2 to 4 in not closing the rowdy sheet No.198 opened against the petitioner, as illegal and contrary to the Standing Order 742 of the Andhra Pradesh Police Standing Orders, and consequently to set aside the said rowdy sheet.

2) Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home for respondents 1 to 4.

3) Factual matrix of the writ petition may be stated as follows:

A case in Crime No.17 of 2011 for the offence punishable under Sections 302 r/w.34 of IPC was registered against the petitioner and other accused by Mangalagiri Rural Police. It is stated that after full-fledged trial, initially the petitioner along with others were convicted for the offence punishable under Sections 302 r/w.34 of IPC and on an appeal preferred by him, in Criminal Appeal No.275 of 2012, that he was acquitted in the said case. However, despite his acquittal in the said case, the rowdy sheet bearing No.198, which was opened against the petitioner, was not closed by the respondents. It is stated that when no case is pending against the petitioner and when there is no other material available with the police justifying continuation of the said rowdy sheet, that the action of the respondents in continuing the said rowdy sheet against the petitioner is legally

unsustainable and it is against to the Police Standing Order 742. Therefore, the petitioner prayed to set aside the said rowdy sheet which was opened against the petitioner.

4) Learned Assistant Government Pleader for Home would submit that eventhough no criminal case is now pending against the petitioner, still as per Standing Order 602(2) of the A.P. Police Standing Orders, the said rowdy sheet which was opened against the petitioner can be continued as the activities of the petitioner are found to be prejudicial to the maintenance of public order and as nobody is coming forward to lodge a report against the petitioner.

5) The fact that the petitioner was acquitted in the said murder case which was registered against him in the appeal preferred by him is not disputed before this Court. It is also not in dispute that no other case is now pending against the petitioner in any police station. However, the respondents now claim justification in continuing the said rowdy sheet by invoking Police Standing Order 602(2). A reading of the said Standing Order 602(2) makes it manifest that three grounds are contemplated in it to continue the rowdy sheet. They are: (i) that the concerned authority must have material before him that the activities of the petitioner are prejudicial to the maintenance of public order; (ii) his conduct must be of such a nature which is affecting the peace and tranquillity in the area; and (iii) that the victims are not coming forward to give any complaint against him on account of threat from him.

6) Therefore, it is now clear that existence of any one of these three grounds is an indispensable requirement to justify continuation of the rowdy sheet that was opened against the petitioner. The respondents did not produce any material before this Court to show that the activities of the petitioner are prejudicial to the maintenance of public order. The first condition clearly envisages that the concerned authority must have material before him that the activities of the petitioner are prejudicial to the maintenance of public order. No such material is produced before this Court to prove that the activities of the petitioner are prejudicial to the maintenance of public order. Therefore, the continuation of rowdy sheet against the petitioner cannot be upheld under the first ground. Similarly, there is also no valid material placed before this Court to show that the conduct of the petitioner is of such a nature which is affecting the peace and tranquillity in the area. The third ground is wholly inapplicable to the facts of the case. Therefore, none of the three grounds enumerated in Police Standing Order 602(2) is in existence to justify continuation of the rowdy-sheet that was opened against the petitioner. In fact, this Court in the case of **Tadiboyina Peraiah Mahesh v. State of A.P.**¹ clearly held that without there being any material placed to substantiate that the activities of the petitioner are prejudicial to the maintenance of public order or that his conduct is of such a nature which is affecting the peace and tranquillity in the area, that Police

¹ 2021(2) L.S. 14 (A.P.)

Standing Order 602(2) cannot be invoked by the police officials to justify continuation of the rowdy sheet.

7) Therefore, in the facts and circumstances of the case, this Court is of the considered view that there is absolutely no justification on the part of the respondent police officials in not closing the rowdy sheet and in continuing the said rowdy sheet which was opened against the petitioner even after he was acquitted in a murder case that was registered against him.

8) Therefore, the Writ petition is allowed declaring that the action on the part of the respondent police officials in not closing the rowdy sheet bearing No.198 which was opened against the petitioner and continuing the same from time to time without any valid basis, as illegal and unconstitutional. Consequently, the aforesaid rowdy sheet that was opened against the petitioner and which is being extended from time to time is hereby ordered to be closed forthwith. No costs.

Consequently, miscellaneous applications, pending if any, shall also stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date:01.07.2021.

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