

This Writ Petition Is Filed To Declare ... vs Unknown on 5 September, 2023

Author: K. Sreenivasa Reddy

Bench: K. Sreenivasa Reddy

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Writ Petition No.20730 of 2023

Order:

This Writ Petition is filed to declare the action of the respondents herein in opening and continuing the suspect sheet No.474, dated 15.11.2019, against the petitioner herein, as illegal and arbitrary.

2. Case of the Writ Petitioner, in brief, is that in the year 2018 a case in Crime No.132 of 2018 of Nellore IV Town Police Station, Dargamitta, SPSR Nellore district was registered against him for the offences punishable under Sections 353, 272, 273 read with 34 IPC and Section 59(i) of the Food Safety and Standard Act, 2006, alleging that he was transporting prohibited tobacco products. Aggrieved by the same, he filed quash petition in CrI.P.No.2557 of 2023 and this Court, by an order dated 11.04.2023, allowed the said Criminal Petition and quashed the proceedings in the above said crime against the petitioner herein. The further case of the petitioner herein is that except the above said crime, no other crime was registered against him and in spite of that the respondent police opened rowdy sheet against him. Hence, he filed the present Writ Petition.

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3. A counter affidavit has been filed on behalf of respondent No.4 stating that the petitioner herein is involved in Crime No.132 of 2018 of Nellore IV Town Police Station, Dargamitta, SPSR Nellore district, registered for the offences punishable under Sections 353, 272, 273 read with 34 IPC and Section 59(i) of the Food Safety and Standard Act, 2006 and the same is under investigation. It is further stated that to curb and curtail the unlawful activities of the petitioner herein in the vicinity, the SHO, IV Town Police Station, Dargamitta, Nellore of SPSR Nellore district, opened suspect sheet against the petitioner herein after getting permission from the Sub-Divisional Police Officer, Nellore Town, vide C.No.27/GL-SDPON(T)/2019, dated 15.11.2019, and subsequently the said suspect sheet was transferred to Nellore Rural Police Station on 15.03.2021, since the petitioner is residing at Nellore Rural Police Station limits. 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 for 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

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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.

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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."

It is further stated in the counter affidavit that except the above mentioned case, no other case was registered or pending against the petitioner herein on the file of Nellore IV Town Police Station.

4. Heard. Perused the material on record.

5. The Writ Petitioner is doing business. In the year 2018, a case

in Crime No.132 of 2018 of Nellore IV Town Police Station, Dargamitta, SPSR Nellore district was registered against him for the offences punishable under Sections 353, 272, 273 read with 34 IPC and Section 59(i) of the Food Safety and Standard Act, 2006, alleging that he was transporting prohibited tobacco products. Aggrieved by the same, he filed quash petition in CrI.P.No.2557 of 2023 and this Court, by an order dated 11.04.2023, allowed the said Criminal Petition and quashed the proceedings in the above said crime against the petitioner herein. Admittedly, as per the counter affidavit, no case is pending

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against the petitioner herein as on today. 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 the peace, disturbances to public order and security. In the present case on hand, except the above mentioned case registered against the petitioner herein, there are no other 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. 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 suspect sheet against the petitioner herein would amount to abuse of process of the Court.

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

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

K. SREENIVASA REDDY, J.

Date:05.09.2023 Nsr SRK, J HON'BLE SRI JUSTICE K. SREENIVASA REDDY Writ Petition No.20730 of 2023 Date:05.09.2023 Nsr