

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.35812 of 2013

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“to issue order or orders or direction or writ more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondents No.2 and 3 in continuing the rowdy sheet No.9/1997 against the petitioner even after clear acquittal in SC No. 407/2001 on the file of the Hon'ble II Additional Sessions Judge, at Eluru, West Godavari Dist, as illegal and arbitrary and consequentially direct the respondents No. 2 and 3 to close the rowdy sheet No. 9/1997 opened against the petitioner.”

2. Heard Sri M.L.Ali, learned counsel for the petitioner and the learned Government Pleader for Home for the respondents apart from perusing the material available before the Court.

3. According to the petitioner, he is a permanent resident of Eluru Town and is a driver by profession and is married and blessed with two children who are school going and his old aged mother is dependant on him.

4. The sum and substance of the grievance of the petitioner herein in the present writ petition is that even though no criminal cases are pending against the petitioner herein, the respondent police authorities are continuing the rowdy sheet opened against the petitioner on 10.10.2007. It is further submitted that earlier the petitioner herein was implicated in SC.No.407/2001 on the file of the II Additional Sessions Judge, Eluru, West Godavari District and the said Court after full fledged trial acquitted the petitioner herein on 24.01.2005. It is the further submission of the learned counsel for the petitioner that the very continuing of rowdy sheet against the petitioner herein is a patent contravention of the police standing orders. Learned counsel for the

petitioner further submits that the action of the respondent police authorities in continuing rowdy sheet against the petitioner herein without there being criminal case, is illegal, unsustainable and violative of Articles 14 and 21 of the Constitution of India. It is further submitted that the petitioner is not an habitual offender.

5. The Sub-Inspector of Police, Eluru II Town, Law and Order Police Station has filed a counter affidavit and paragraphs 4 to 7 of the said counter affidavit read as under:

“4. It is respectfully submitted that, in view of the involvement of the petitioner herein in the cases it has become incumbent on the part of the respondents police to curb and curtail their unlawful activities of the petitioner herein, after obtaining permission from the Sub Divisional Police Officer, Eluru on 10.10.1997 the rowdy sheet has been opened against the petitioner herein on the file of this respondent Police Station, West Godavari District and it is continued upto 31.12.2013 to watch his activities.

It is respectfully submitted that, if the rowdy sheet is closed, the petitioner will repeat the offence. Hence maintaining the rowdy sheet against the petitioner herein is essential to watch his activities.”

6. Today, when the matter is called, written instructions dated 27.08.2015, furnished by the Deputy Superintendent of Police, Eluru Sub-Division, West Godavari District, have been placed on record. As per the said instructions also no cases are pending against the petitioner herein with the respondent police station.

7. As evident from the counter affidavit and the written instructions furnished by the Deputy Superintendent of Police, Eluru Sub-Division, West Godavari District, no cases are pending against the petitioner herein as on today. In view of the said reason, the petitioner herein cannot be stated to fall under the category of habitual offender, which is essential for opening and continuing of rowdy sheet against any person, the justification sought to be offered in the counter affidavit filed by the respondent authorities is contrary to the principles laid down in the judgment of this Court in **MOHAMMED QUADEER AND OTHERS**

**VS. COMMISSIONER OF POLICE, HYDERABAD AND
ANOTHER^[1].**

8. In these circumstances, this Court finds absolutely no justification on the part of the respondent police authorities in continuing the rowdy sheet against the petitioner as such the rowdy sheet being continued against the petitioner herein is liable to be quashed and is accordingly quashed.

9. Accordingly, the writ petition is allowed, quashing the rowdy sheet against the petitioner. However, if the petitioner is found involved in unlawful activities, it is open for the respondent police authorities to take appropriate action against the petitioner, in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:31-08-2015

grk

WRIT PETITION No.35812 of 2013

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Dated 31st August, 2015
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**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR
THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.35812 of 2013

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Between:

Shaik Sattar @ Sardar,
S/o Hussain Saheb,
Aged 36 years, Occ: Driver,
R/o 24/A, 2/19, near Old RTO Office,
Yetigattu, Ashok Nagar, Eluru,
West Godavari District.

... Petitioner

and

The Government of Andhra Pradesh,
Represented by its Principal Secretary,
Home Department, Secretariat,
Hyderabad and two others.

... Respondents

JUDGMENT PRONOUNCED ON: 31st August, 2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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| 1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
Fair copy of the judgment? | Yes/No |

[\[1\]](#) 1999 (3) ALD 60