

APHC010139782025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3330]

FRIDAY, THE NINTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 7369/2025

BETWEEN:

Gonabavi Jani

...Petitioner

AND

The State Of Andhra Pradesh and Others

...Respondent(s)

Counsel for the Petitioner:

1.AYESHA AZMA S

Counsel for the Respondent(S):

1.GP FOR HOME

The Court made the following:

ORDER:

Writ petition is filed to issue an appropriate writ order or direction preferably in the nature of a writ of Mandamus declaring the action of the respondent police in opening and continuing the Rowdy Sheet No 451 opened against the petitioner as illegal, arbitrary, unjust, colourable exercise of power and in violation of Article 21 of the Constitution of India and consequently prayed to direct the respondents to close the said Rowdy Sheet No 451 of 2024 and to remove the photo of the petitioner from the notice board of the Kalyanadurgam Police Station Kalyandurgam town, Anantapuramu district in the interest of the justice.

2. It is the specific case of the writ petition that he belongs to agriculture family and working at Reliance Industries and leading a peaceful life without any complaint from any quarter much less from the public one Onteddu Sreekanth Reddy foisted a false petty case against the petitioner and others for the offence punishable under Sections 448, 324, 506 r/w 34 IPC on the file of Kalyandurgam Urban Police Station the police filed charge sheet and the case was numbered as C.C. 1793 of 2022 and the same

is pending for trial on the file Judicial Magistrate First Class Kalyandurgam. While so it comes to the knowledge of the petitioner that the 3rd respondent Deputy Superintendent of Police allowing the 4th and 5th respondent to open rowdy sheet against the petitioner. And the opening of the rowdy sheet is mechanical without application of mind, vague and non-existing grounds and which curtails the fundamental right guaranteed under Article 21 of the Constitution of India and it causing indignity in the society and it is demean the name and fame of the petitioner and causing mental harassment.

3. And it is further asserted in the affidavit the police are calling the petitioner to the police station on the pretext of taking photographs and thumb impressions and in violation of Police Standing order 742 and the respondent can invoke the Police Standing Orders if the activities of the petitioner prejudicial to the maintenance of law and Order and the respondents traversed beyond the scope of The Andhra Pradesh Police Manual (APPM) and relied on the Judgments in Govind vs State of M.P. , and also relied on the judgment of Malak Singh Vs State of Punjab.

4. A.P. Police Manual, rowdy sheet can be maintained against persons who habitually commit, attempt to commit or abet the

commission of offences involving a breach of peace, disturbance to public order and security. The police may also open history sheets for suspects. Suspects are those persons who are convicted under any section of the Indian Penal Code and who are considered likely to commit crime again. Persons who are not convicted but are believed to be addicted to crime are also treated as suspects. In case a History sheet is opened on the ground that a person is a suspect, care should be taken that History sheets are opened only for persons who are likely to become habitual criminals, (PSO 736).

5. A counter affidavit has been filed asserting that after completing investigation a charge sheet has been filed to punish the writ petitioner under Sections 448, 324, 506 r/w 34 IPC the case was numbered as C.C. 1793 of 2022 and the same is pending for trial on the file Judicial Magistrate First Class Kalyandurgam. Further it is stated that the petitioner herein has scant respect towards the law and in order to curb and curtail the unlawful activities of the petitioner herein the locality of the Kalyandurgam urban Police has opened suspect sheet against the petitioner after obtaining permission from Sub-Divisional Police Officer order dated 18.12.2020. Under police standing

order 601: (i) if the activities are prejudicial to the maintenance of public order or affecting peace and tranquility in the area; and (ii) the victims are not coming forward to give complaint against him on account of threat from him is a ground to open a rowdy sheet against suspect person.

6. Whether the opening of the rowdy sheet against the writ petitioner is sustainable or it is liable to be set aside?

7. The Apex Court had an occasion to deal with the opening of history sheets, continuation of the same and also right to privacy in *Kharak Singh vs The State Of U. P. & Others*¹: The Apex Court held that under the shadow of surveillance it certainly amounts to deprivation of freedom. He can move physically, but he cannot do so freely, for all his activities are watched and noted. The shroud of surveillance cast upon him perforce engender inhibitions in him and he cannot act as freely as he would like to do. We would, therefore, hold that the entire Regulation 236 offends also Art. 19 (1) (d) of the Constitution.

8. Assuming that Art. 19 (1) (d) of the Constitution must be confined only to physical movements, its combination with the freedom of speech and expression leads to the conclusion we

¹ AIR 1963 SC 1295

have arrived at. The act of surveillance is certainly a restriction on the said freedom. It cannot be suggested that the said freedom is also bereft of its subjective or psychological content, but will sustain only the mechanics of speech and expression.

9. In the said case, rowdy sheet was opened against the petitioner therein and the same was continued. Under the guise of surveillance, the police started visiting the house of the petitioner therein against whom rowdy sheet was opened and pending during night hours and they used to torture him. The Apex Court declared the domiciliary visits at night hours as unconstitutional.

10. In *Vijay Narain Singh Vs State of Bihar and others*², the Apex Court had extensively dealt with the definition of “habitual offender” under the Preventive Detention Act and held that at para 12 “ in simple language the word 'habitually' means 'by force of habit'. The expression 'habitually' means 'repeatedly' or 'persistently'. It implies a thread of continuity stringing together similar repetitive acts. Repeated, persistent and similar, but not isolated, individual and dissimilar acts are necessary to justify an inference of habit. It connotes frequent commission of acts or

² [(1984) 3 SCC 84]

omissions of the same kind referred to in each of the said sub-clauses or an aggregate of similar acts or omissions.

11. In *Dhanji Ram Sharma Vs Superintendent of Police*³ held that a suspect may or may not have been convicted in any crime. Even a part from any conviction there may be reasonable grounds for believing that he is a habitual offender.

12. In *B. Satyanarayana Reddy v. State of Andhra Pradesh*⁴, Police Standing Order No. 742 — to include the name of a person in a rowdy sheet it has to be established that such person habitually commits or abets the commission of offences involving breach of peace — A solitary case resulting in a breach of peace is not enough to include his name in the rowdy sheet.

13. In *Majid Babu v. Government of A.P.*⁵, a division bench placing reliance of the apex court judgment in “*Vide Malak Singh v. State of Punjab*”⁶ held that “When the Police open Rowdy Sheets against persons involving any offences pertaining to breach of peace, they need not communicate the reasons nor are the persons concerned entitled to be heard before the rowdy

³ AIR 1966 SC 1766

⁴ 2004(1) ALD (CrI.) 387

⁵ 1987 (2) ALT 904

⁶ (1981) 1 SCC 420

sheets are opened. Nonetheless, when a complaint is made to the Court that, contrary to the provisions of the Police Standing Order, Rowdy Sheets are opened, the respondents are under a duty to satisfy the Court that the action taken by them accords with the provisions of the Police Standing Orders or any other valid provision of law.” In addition it is further observed that “Two instances would not make a person a habitual offender. At least more than two instances should be present before a person can be described as habitual offender. Merely because the two persons are figuring as accused in respect of two crimes registered by the Police, no inference can be drawn that they are habitual offenders.”

14. In *Kamma Bapuji v. Station House Officer, Brahmasamudram*⁷, a learned Single Judge has held that “Involvement of petitioners into two cases and those cases have nothing to do with breach of the peace. It is not the case of the respondents that commission of these offences has resulted in breach of the peace in the village or town, as the case may be. Involvement in two cases itself would not attract clause (a) of S.O. 742 and the person/persons cannot be treated as rowdy and no

⁷ (1997) 6 ALD 583

rowdy sheet can be opened against such person (s). Be that as it may, even the said two cases registered against the petitioners, admittedly, had not resulted in any breach of peace.

15. The view expressed by the learned single Kamma Bapuji case (referred supra) has been followed in *Puttagunta Pasi v. Commissioner of Police, Vijayawada*⁸, a Division Bench of this Court again had an occasion to consider whether opening of a rowdy sheet under PSO 742 is proper and legal. Analysing cases decided by this Court, the Division Bench held that opening of the rowdy sheets in a routine manner against persons who are not habitual offenders is not permissible and went on to lay down that:

".....it is clear that rowdy sheets cannot be opened against any individual in a casual and mechanical manner. Dubbing a person as an habitual offender and to open a rowdy sheet is not sufficient. On the other hand, due care and caution shall be taken by the Police before characterising a person as a rowdy. The important element that has to be seen in the acts of an offender is whether the acts so committed by a person will have a tendency to disturb public peace and tranquility." As per the A.P. Police Manual Standing Order No.602(2), even though a

⁸ (1998) 3 ALT 55

suspect/rowdy having history sheet is not figuring as an accused in the previous 5 years after the last case in which he was involved, still the authorities can continue his history sheet if in their considered view, his activities are prejudicial to the maintenance of public order or one effecting peace and tranquillity in the area or the victims are not coming forward to give complaint against him on account of threat from him.

16. In *Mohammed Quadeer v. Commissioner of Police, Hyderabad*⁹: “it was held that 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. As regards retention of a rowdy sheet, it was held that opening of a 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. The law which authorizes the police to open rowdy sheets and exercise surveillance would have to be very strictly construed.”

⁹ 1999 (3) ALD 60

17. The legal validity of Chapter 37 of the A.P. Police Manual, which serves as the foundation for the creation of rowdy-sheets, suspect-sheets, and history-sheets, has been brought into question and challenged in *Udathu Suresh Vs The State OF AP Rep by its Principle Secretary Home Department Secretariat Velagapudi Amaravathi in W.P.No.3568 of 2022* and related cases. In a common order dated 15.07.2022, this court addressed the issue extensively, taking into account relevant laws and previous judgments by the Supreme Court, particularly the landmark judgment in *K.S. Puttaswamy v. Union of India*¹⁰. This court concluded that Chapter-37 of the A.P. Police Manual or A.P. Police Standing Orders on the basis of which the rowdy-sheets/suspect-sheets/history-sheets are being opened and surveillance is being kept on the individuals on the basis of the said rowdy-sheets/suspect-sheets/history-sheets, as deemed void.

18. At para 45 of the said common order, it is held as follows:

“45) Hence, the Writ Petition No.3568 of 2022 is allowed declaring the Standing Orders of A.P. Police Manual / A.P. Police Standing Orders to the extent of opening/ continuation of Rowdy Sheet, Suspect Sheet, History Sheet

¹⁰ (2017) 10 SCC 1

etc., and on that basis the surveillance of the individual (in terms of Chapter 37 of the above said Standing Orders) as void. All the other Writ Petitions are also allowed. All the rowdy sheets opened in this batch of Writ Petitions are directed to be closed immediately. The police cannot open or continue a rowdy sheet or collect data pertaining to a person without the sanction of “law”. Collection of personal data and its usage for prevention of crimes also can only be in accordance with a “law” which crosses the thresholds mentioned in the Constitution of India and the various judgments including K.S.Puttaswamy case (referred supra) since ‘privacy’ is now a Fundamental Right as per Part-III of the Constitution of India. It is reiterated that the police cannot (under the existing orders) indulge in night visits; domiciliary visits to the houses of a suspect or accused. They cannot take or demand the photographs, fingerprints etc., except under the procedure established by a ‘law’ and if the conditions laid down are satisfied. Accused or suspects cannot be summoned or called to the Police Station or anywhere else either during festivals/ elections/weekends etc. They cannot be made to wait at the Police Stations for any reason or seek permission to leave the local jurisdiction.”

19. The Apex Court in *Narendra Purshotam Umrao v. B.B. Gujral*¹¹ held that when the liberty of the subject is involved, whether it is under the Preventive Detention Act or the

¹¹ [(1979) 2 SCC 637]

Maintenance of Internal Security Act or the Conservation of Foreign Exchange & Prevention of Smuggling Activities Act or any other law providing for preventive detention-

"It is the bounden duty of the court of the constitutional court to zealously watch to satisfy itself that all the safeguards provided by the law have been scrupulously observed and that the subject is not deprived of his personal liberty otherwise than in accordance with law."

20. As seen from the counter affidavit filed in the writ petition it is asserted that C.C.No.1793 of 2022 is pending for trial on the file Judicial Magistrate First Class Kalyandurgam for offences punishable under Sections 448, 324, 506 r/w 34 IPC. As per the A.P. Police Manual and also the principle laid down in the aforesaid judgments, it was not established no assertion that the writ petitioner's activities are prejudicial to the maintenance of public order or affecting peace and tranquility in the area with the reasoning. The opening of the rowdy sheet in the name of the petitioner therein was therefore tainted in law in its very inception.

21. Applying the principles found in the judgments mentioned above in vivid terms, it was held that in a single criminal case (C.C. 1793 of 2022) that is pending trial, the police cannot open the rowdy sheet against the petitioner.

22. Therefore, continuation of the said rowdy sheet by the police authorities ignoring the law laid down by this Court as well as the Supreme Court cannot be sustained.

23. Accordingly, the Writ Petition is allowed and the respondents herein are hereby directed to close the rowdy/history sheet being maintained in the name of the petitioner therein.

As a sequel, interlocutory applications, if any pending in this Writ Petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 09.05.2025

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHARA RAO

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Date: 09.05.2025

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