*** HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

+ Writ Petition Nos.21247, 26239, 31949, 32683 & 40632 of 2016, 11468, 31311 of 2017, 3721, 8473 of 2019, 6144, 19071, 23238, 23246, 23665 of 2020, 3919, 4212, 7309, 17453, 20139, 20220, 25363, 25448, 25451, 30789, 31142, 31212, 31405 of 2021, 1802, 2007, 2634, 3568, 3588, 3647, 4010, 4461, 4814, 5128, 5322, 5573, 5633, 5707, 5776, 5811, 6048, 6107, 6228, 6281, 6351, 6364, 6393, 6683, 6713, 6797, 6948, 7202, 7543, 7832 of 2022

% **15th July, 2022**

W.P.No.3568 of 2022:

Udathu Suresh

... Petitioner..

AND

$ The State of Andhra Pradesh and 4 others.

... Respondents.

! Counsel for the Petitioners : Mr.Raja Reddy Koneti
Mr.K.S.Murthy, Senior counsel
Mr.O.Manohar Reddy, Senior Counsel
Mr. V.V.Satish
Mr. G. Ramgopal
Mr. P.S.P. Suresh Kumar
Mr. A.K. Kishore Reddy
Mr. R. Ramnjaneyulu
Mr. Thota Ramakoteswara Rao
Mr. G. Rajkumar
Mr. P.B. Vijay Kumar
Mr. N. Chandra Sekhar Reddy
Mr. N. Siva Reddy
Mr. Peeta Raman
Mr. Ch. Venkata Raman
Mr. B.V. Anjaneyulu
Mr. C. Raghu
Mr. Harinath Reddy Soma
Mr. Sivaprasad Reddy Venati
Mr. C. Subodh
Mr. Challa Gunaranjan
Mr. Manoj Kumar Bethapudi
Mr. Jada Sravan Kumar
Mr. Ch. Bhanu Prasad
Mr. G. Eswaraiah
Mr. Kolluri Arjun Chowdary
Mrs. Nimmagadda Revathi
Mr. Harishkumar Rasineni

Mr. Posani Venkateswarulu
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Dr. Majji Suri Babu
Mr. K.M. Krishna Reddy
Mr. Karumanchi Indraneel Babu
Mr. D.S.N.V.Prasad Babu

^ Counsel for the respondents: Government Pleader for Home

< Gist:

> Head Note:

? Cases referred:

1. (1981) 1 SCC 420 = AIR 1981 SC 760
2. (2017) 10 SCC 1
3. AIR 1963 SC 1295
4. AIR 1954 SC 300
5. 1993 (3) ALD 30
6. 1999 (6) ALT 240
7. 1984 CrlLJ 909
8. 1997 (6) ALD 583
9. (1975) 2 SCC 148
10. 2020 SCCOnLine Mad 6675
11. AIR 1966 SC 1766 = 1996 CrlLJ 1486
12. AIR 1981 SC 674
13. 1998 (3) ALT 55
14. 2003 Online AP 1013
15. AIR 1964 SC 33
16. (1997) 1 SCC 301
17. (2012) 5 SCC 1
18. AIR 1969 SC 125
19. AIR 1952 SC 47
20. (1978) 1 SCC 248
21. (2008) 4 SCC 720
22. AIR 1971 SC 2486

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COMMON ORDER:

"Your freedom ends where my nose begins."

A man is walking on a busy crowded street swinging his arms with gay abandon, when somebody stopped him. He said "I have my freedom and these are my arms". An elderly gentleman told him that by swinging your arms you cannot hit me on my face - "Your freedom, therefore, ends where my nose begins". This is how the concept of reasonable restriction was planted in our mind at a young age.

2) The question that arises in these cases is similar and has been pending before the Indian Judiciary for years. The opening remarks made in 1981 in ***Malak Singh and Others v State of P&H and Others***[1] by Justice O.Chinnappa Reddy are as follows:

> "To what extent may the citizen's right to be let alone be invaded by the duty of the police to prevent crime is the problem posed in these two appeals by special leave under Article 136 of the Constitution."

[1](1981) 1 SCC 420 = AIR 1981 SC 760

3) This big batch of writ petitions has been filed questioning the opening and continuation of rowdy sheets against the petitioners in all these cases.

4) Learned counsels have argued the matter at length, but the leading arguments were advanced by Sri Rajareddy Koneti, learned counsel for the petitioner in W.P.No.3568 of 2022, who also challenged the vires of the Police Standing Orders under which these rowdy sheets are being opened and continued. Therefore, this Writ Petition is taken up as the lead Writ Petition.

5) This Court has also heard Sri K.S.Murthy, Learned Senior counsel, Sri V.V. Satish, Sri G. Ramgopal, Sri P.S.P. Suresh Kumar and others. The learned counsels adopted the essential arguments advanced by the lead counsels and each of them supplemented the same by making their submissions on the facts of each case.

6) In reply to this Sri G. Maheswar Reddy, learned Government Pleader for Home argued the matter at length for the respondent-State of Andhra Pradesh.

7) This Court at the very outset places on record its deep sense of appreciation for the learned counsels who argued the matter at length and also to Sri G.Maheswar Reddy, learned Government Pleader for Home, who articulated the State's view point very efficiently.

8) The gist of the submissions made by all the learned counsels for the petitioners can be summarized as follows:

a) The opening and the continuation of rowdy sheets is contrary to law. The Constitution Bench of the Hon'ble Supreme Court of India in ***K.S.Puttaswamy v Union of India***[2] has clarified that privacy is also a Fundamental Right and that the judgments in cases of ***Kharak Singh v State of U.P.***[3] and ***M.P. Sharma v Satish Chandra***[4] are not good law. In view of the declaration of law by the highest Court of the land that Privacy is a Fundamental Right, it can be restricted only in accordance with a "law".

b) It is argued that as far as the State of Andhra Pradesh is concerned all the rowdy sheets are being opened and continued on the basis of Andhra Pradesh Police Standing Orders, which are merely departmental instructions and are not "law". The Andhra Pradesh Police Manual, and the orders therein on which the State places reliance, cannot be called "law". It is also submitted that the standing orders have been declared to not to have the force or / effect of law, in the cases of ***Mohammed Quadeer and Ors., v Commissioner of Police, Hyderabad and Ors.,***[5] and ***Sunkara Satyanarayana v State of Andhra Pradesh, Home Department and Ors.,***[6]**.** It is submitted that in view of

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[2](2017) 10 SCC 1
[3]AIR 1963 SC 1295
[4]AIR 1954 SC 300
[5]1993 (3) ALD 30
[6]1999 (6) ALT 240

these pronouncements of law relating to the very same Police orders, no further declaration need be sought, but still the lead petitioners have sought a declaration that the Standing Orders are not law in view of the recent judgment in ***K.S.Puttaswamy case (2 supra)***.

c) Alternatively, it is also submitted that even the rules and procedure prescribed in Standing Orders are not being followed and that the Rowdy Sheets are being opened and continued mechanically without any application of mind and without any basis or material in support. It is also stated that the periodical review, which is stipulated by the Police Standing Orders, is not being followed and rowdy sheets are being continued *ad infinitum*. Even after acquittals in the solitary cases the rowdy sheets are being continued.

d) Even the offences not included under the A.P. Police Manual are being included or stated as the reason for opening of rowdy sheets. Cases involving transportation of tobacco products are used as a reason to open the rowdy sheets, for example in W.P.Nos.20220 of 2021 and 20139 of 2021. Even after FIRs were quashed the rowdy sheets are continued. It is also submitted that cases which are compromised in Lok Adalat etc., are still being used as a ruse to continue the rowdy sheets (W.P.No.17453 of 2021). Petty offences are registered and rowdy sheets are opened.

e) The petitioners are being called to the police station at unearthly hours and are made to wait for a day or two at the police station. The right of the police to summon the petitioners / rowdies to the police stations, making them stand / wait and the practice of parading them before the superior officers is also questioned. Police personnel are constantly visiting the houses of the petitioners without any basis or reason.

f) Their photographs are obtained and are put up in Police Stations in prominent places branding them as "Rowdies" for the general public to see.

g) The petitioners are being classified as habitual offenders / known depredators / rowdies even if they are involved in one stray crime. Judicial definition of habitual offender as decided by the Hon'ble Supreme Court of India in the case of ***Vijay Narain Singh v State of Bihar***[7]**,** which is followed in the case of ***Kamma Bapuji and Ors., v Station House Officer, Brahamasamudram and Ors.,***[8] is also blatantly overlooked by the Police authority.

h) It is also submitted that despite the clear pronouncement on the law by the highest Courts of the land and the High Court of Andhra Pradesh, police are opening and continuing the rowdy sheets with utter

[7]1984 CrlLJ 909
[8]1997 (6) ALD 583

disregard to the settled law. None of the procedural safeguards are also followed. There is no application of mind or consideration of material either in the opening or the continuation of the rowdy sheets.

i) The home/domiciliary visits, summoning to the station, collection of personal information, the display of such information and its dissemination including sharing of the same is questioned as a clear infringement of the right of privacy. Infringement of Articles 14,19 and 21 is mentioned in many writ petitions.

j) It is argued that the Cr.P.C., and other laws contain measures / provisions for prevention of crime and that these provisions of law are not at all utilised,

k) Lastly, it is argued that once there is an authoritative declaration by the Hon'ble Supreme Court of India that privacy is a Fundamental Right, it can only be restricted by a law. According to the learned counsels there is no 'law 'at all in existence and the PSO are mere administrative guidelines. Hence they pray for a general order.

9) Since very long arguments are advanced on various aspects the gist of the submission is summarised on behalf of the petitioners.

10) For the respondents, Sri G. Maheswar Reddy, learned Government Pleader for Home submitted the following:-

a) According to him, one of the most important functions of the Police is the early detection and prevention of crime. Learned Government Pleader emphasises on this aspect of collection of data / intelligence etc., for early detection of a potential crime and for the purpose of prevention of the same. This is the essential substratum of his arguments and he submits that compelling public interest is involved in this. He relies on the Chapters relating to Surveillance in the Police Standing Orders in support.

b) It is his contention that under Section 149 of Cr.P.C., also the Police have an active duty to prevent the commission of cognizable offences. Learned Government Pleader for Home, therefore, emphasises that the entire exercise of the Police Department, in either opening or in continuing the rowdy sheet, is to ensure that a crime is not committed by gathering information/intelligence. According to him, the prevention of crime and the protection of the society are the essential reasons /rationale for the opening of a rowdy sheet.

c) He also submits that the challenge to the Police Standing Orders made in these cases is not backed up

by adequate or proper pleadings and that, therefore, this Court cannot decide on the vires of the Police Standing Orders.

d) Learned Government Pleader also argues that the Police Standing Orders are not unconstitutional, that procedural safeguards are provided and that they are being implemented. He points out that proportionality is also present and that the rowdy sheets are being opened and continued only in cases whether it is absolutely necessary and in the public interest.

e) He also submits that the decision in ***K.S.Puttaswamy (2 supra)*** did not directly discuss the issue of "rowdy sheet / surveillance" etc., and that, therefore, the fact context of the said judgement cannot be lost sight of. In view of the difference in facts and the points of law, learned Government Pleader for Home submits that the case of ***K.S.Puttaswamy (2 supra)*** by itself cannot be a ground to allow all these Writ Petitions.

f) He also submits in the alternative that the judgments of the Hon'ble Supreme Court of India reported in ***Gobind v State of Madhya Pradesh and Another***[9] and ***Malak Singh case (1 supra)*** recognized the need for and upheld discrete unobtrusive surveillance of suspects.

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[9](1975) 2 SCC 148

g) He also points out that in the State of Andhra Pradesh in the leading judgement of ***Sunkara Satyanarayana (6 supra)*** a learned single Judge of this Court also held that discreet surveillance is permissible in order to prevent crime.

h) He points out that the learned single Judge held that right to privacy under Articles 14, 19 and 21 are violated only when the rowdy sheeter is subjected to obtrusive/intrusive surveillance. Learned Government Pleader for Home points out that even before the Hon'ble Supreme Court of India held that privacy is a Fundamental Right, the learned single Judge noticed this aspect and yet did not strike down the action being taken by the police. He only imposed certain "reasonable" restrictions. This judgement is cited as an alternative argument.

i) Similarly, he relies upon the judgement of the learned single Judge of the Telangana High Court in W.P.No.18726 of 2020 to argue that unobtrusive surveillance limited to barest minimum can be carried out. Alternatively by relying upon a judgement of the Karnataka High Court in W.P.No.4504 of 2021 and batch decided on 22.04.2021 **(*B.S.Prakash v State of Karnataka*)** which is after the judgement in ***K.S.Puttaswamy case (2 supra),*** learned Government Pleader points out that even the learned single Judge

clearly held that in view of the compelling State interest certain guidelines have to be issued and that the institutionalised rowdy register, history sheeting etc., should not be abruptly discontinued with a stroke of pen. He points out that the learned single Judge gave alternative directions to include the due process clause. In line with this he also relies on the judgement of a learned single Judge of Madras High Court in ***Thirumagan v Superintendent of Police and another***[10] case where directions were issued to the Police only with respect to rowdy sheets .

j) Therefore, learned Government Pleader argues that the Writ Petitions have to be dismissed and the entire process of rowdy sheeting etc., should not be abruptly discontinued as that would lead to "compelling State interest" being sacrificed. At best some more safeguards can be suggested and that only a case to case decision must be given based on individual facts and an enmasse declaration against rowdy sheeting is not all called for.

CONSIDERATION BY COURT:

11) The question that arises in this case is a question which has been pending before the Judiciary for years and is mentioned in the opening paragraph. The opening remarks in ***Malak Singh case (1 supra)*** by Justice O.Chinnappa Reddy were reproduced earlier itself.

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[10] 2020 SCCOnLine Mad 6675

12) There is no quietus to this vexed issue as can be seen from the various decisions that were pronounced over the decades. The important judgments relied upon during the course of the submissions are the following:-

i) The first of the decisions is of course the ***Kharak Singh case (3 supra).*** In this Constitution Bench judgement, the majority Judges held that the shadowing of the history sheeter for the purpose of recording his movements and activities for obtaining information is not prohibited by law and it was held that the freedom guaranteed under Article 19(1) of the Constitution of India is not infringed by a watch being kept on the movements of the suspect. The regulation prescribing domiciliary visits was, however, struck down. The dissent of Justice K. Subba Rao for himself and Justice Shah which held that surveillance is bad is discussed later again in the judgement.

ii) In ***Dhanji Ram Sharma v Superintendent of Police, North Dist., Delhi Police and Ors.,***[11], three Judges of the Hon'ble Supreme Court of India had an occasion to judicially define a 'habitual offender'. However, while defining a habitual offender as one who is addicted to crime or a criminal by habit or disposition formed by repetition of crimes, the Hon'ble Supreme Court of India sounded a note of caution stating that this belief must be based upon sufficient grounds and must be reasonable.

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[11] AIR 1966 SC 1766 = 1996 CrlLJ 1486

iii) In ***Gopalachari v State of Kerala***[12] a coordinate Bench of three learned Judges held that as follows:

> "To call a man dangerous is itself dangerous; to call a man desperate is to affix a desperate adjective to stigmatise a person as hazardous to the community is itself a judicial hazard unless compulsive testimony carrying credence is abundantly available."

iv) In the case of ***Malak Singh (1 supra)*** also Hon'ble Supreme Court of India held that surveillance has to be unobtrusive and within limits. It was noted that prevention of crime is one of the prime purposes of the constitution of a police force. It was held that if the surveillance is unobtrusive and within bounds it is permissible. At the same time the Hon'ble Supreme Court of India clearly held in paragraphs 8 and 9 that the police do not have the licence to enter the names of whoever they like (dislike?).

v) The next judgement is the case of ***Gobind (9 supra)***. In this case the Hon'ble Supreme Court of India found that the regulations which the petitioner challenged were framed under a section of the Police Act and, therefore, they were held to be valid. The issue of privacy was also raised in this case, but the Supreme Court of India held that even if personal liberty etc., creates an independent right of privacy it can be subject to reasonable restrictions since regulations were found to have

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[12] AIR 1981 SC 674

force of law. However, in paragraph 33 the following was expressed by the Hon'ble Supreme Court of India –

> "…Mere convictions in criminal cases where nothing gravely imperilling the safety of society cannot be regarded as warranting surveillance under this regulation. Similarly, domiciliary visits and picketing by the police should be reduced to the clearest cases of danger to community security and not routine follow-up at the end of a conviction or release from prison or at the whim of a police officer. In truth, legality apart, these regulations ill-accord with the essence of personal freedoms and the State will do well to revise these old police regulations verging perilously near unconstitutionality."

Emphasis is supplied, because since 1975 nothing was done to follow this dictum of the highest court of the land. In fact, this court notices all the above mentioned judgments are virtually ignored in actual practice till date.

vi) In the State of Andhra Pradesh also, a habitual offender has been defined i.e., ***Kamma Bapuji case (8 supra)*** and ***Puttagunta Pasi v Commissioner of Police and Ors.,***[13]**.** The second is a Division Bench Judgement and the ***Kamma Bapuji (8 supra)*** was also approved**.** In the case of ***Mohammed Quadeer (5 supra)*** the right of privacy was also discussed and it is held that the Police Standing Orders do not have statutory force, and the opening of a rowdy sheet may be in violation of Law and the Constitution.

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[13] 1998 (3) ALT 55

vii) In ***B. Satyanarayana Reddy v State of Andhra Pradesh & Ors.,***[14] a Division Bench approved ***Kamma Bapuji (8 supra)*** and also held that a habitual offender is one who repeatedly or persistently commits the offence. A one-time offender / accused cannot be called a "habitual offender" as per the Division Bench.

viii) The Next important judgement for Andhra Pradesh is ***Sunkara Satyanarayana case (6 supra)*** wherein a learned single Judge went into the entire range of issues including the right to privacy long before the case of ***K.S.Puttaswamy (2 supra)***. He, however, held that the right to privacy is not expressly guaranteed under the Constitution of India as it exists but by a judicial interpretation it was held to be a guaranteed right. Ultimately, the learned single Judge gave directions about the manner in which unobtrusive surveillance should be carried out and what would be justified. He also set out the judicial remedies open to a person who has been deprived of this right. Learned single Judge held that if the surveillance is not obtrusive and does not in a material or palpable form affect the right of the suspect to move freely, it will not affect Article 21. Extensive directions were given in this judgement in Andhra Pradesh.

ix) In a large number of cases in the State of Andhra Pradesh orders were passed by this High Court holding that opening of a rowdy sheet against a person accused of a single

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[14] 2003 Online AP 1013

/ solitary crime is bad; that periodic review as stipulated in the Police Station Orders was not followed; that application of mind by the concerned is not visible etc. Such judgements on a case to case basis are being passed regularly by this High Court quashing / striking down the rowdy sheet due to the procedural and other lapses by the State.

x) The judgement of the Honourable Supreme Court of India in ***State of Andhra Pradesh v N. Venugopal***[15] while dealing with the Madras Police Standing Orders also held that the Standing Orders are mere administrative instructions only and do not have the force of law.

13) The reason why these judgments are mentioned is because this Court notices that despite the law as it exists (the judgments of the Hon'ble Supreme Court of India and the series of orders by the High Court of Andhra Pradesh), the police are still opening and continuing the rowdy sheets ignoring the settled law. Procedural lapses pointed out by the High Court are overlooked over and over again. The decisions in ***Dhanji Ram Sharma case (11 supra), Gopalachari case (12 supra)*** and ***B.Satyanarayana Reddy case (14 supra)*** are also completely ignored. Many people are labelled and branded as 'rowdies' without adequate grounds and/or credible material. The counters filed in the cases do not disclose the existence of credible material for branding the people as rowdies etc. Except stating the number of cases filed /pending and raising

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[15] AIR 1964 SC 33

a standard plea that no one is coming forward to complain, no credible material is filed either for branding a person as such or for continuing the rowdy sheet, for example in W.P.No.17453 of 2021 the petitioner was charged under Section 379 IPC in C.C.No.462 of 2014. This was compromised in the Lok Adalat on 05.12.2014. The rowdy sheet opened in August, 2014 is continuing. Similar is the predicament of the petitioners in W.P.No.20139 of 2021, wherein the FIR itself is quashed. In W.P.No.4814 of 2020 the case was compromised in Lok Adalat. Despite the authoritative pronouncements of the Andhra Pradesh High Court that the Police Standing Orders do not have any statutory force, they are still relied upon by the respondent State for the purpose of opening and continuing the rowdy sheets. In the counters the State relies on the Police Standing Orders only. Despite there being no procedure or regulation the photographs of petitioners are being exhibited on the boards in the Police Stations. The cases are not "reviewed" as stipulated and orders of superior officers are not obtained. Despite findings of the Court acquitting them, the petitioners are still being called to the police station and paraded or made to wait for hours. In a majority of the cases in this batch the interim prayer is for an order not to call/summon the petitioner to the police station. The people involved in transportation of Tobacco produce are also being classified as rowdy sheeters. These are also not offences described under the Police Stating Orders. In W.P.No.25448 of

2021 the petitioner was acquitted in May, 2019. But the rowdy sheet is continuing. It is not clear how the Police have concluded that these petitioners are "habitual offenders" who are 'addicted' to crime and are likely to commit the crimes / become repeat offenders. Despite ***Kharak Singh case (3 supra)*** and ***Sunkara Satyanarayana case (6 supra)***, police still visit the houses of the petitioners/citizens. This is the State of affairs. In the lead case W.P.No.3568 of 2022 the petitioner is essentially charged under the FSS Act. Three out of five cases were quashed. Two similar crimes are still pending. In the counter affidavit filed itself the order No.601 is reproduced. It clearly shows that the petitioner will not fit within the 14 types of offences mentioned in paragraph 5. Even the condition mentioned in Standing Order No.602(2) which shows that the History Sheet can be continued if the SP/DCP/CP is of the considered view that his activities are prejudicial to the maintenance of public order. This suggestion should be based upon the credible material and cannot be subjective satisfaction. The necessary information, including the details which lead to the conclusion to continue the rowdy sheet is not visible from a reading of the counter.

K.S.PUTTASWAMY AND ITS IMPACT:

14) The issue on privacy is finally settled in the landmark judgement of ***K.S.Puttaswamy case (2 supra).*** The following are the conclusions of the learned Judges:

Dr. Justice D.Y. Chandrachud on behalf of himself and the Chief Justice J.S. Khehar and Justice S. Abdul Nazeer: (Paras 313 and 315)

> **"313.** Privacy has been held to be an intrinsic element of the right to life and personal liberty under Article 21 and as a constitutional value which is embodied in the fundamental freedoms embedded in Part III of the Constitution. Like the right to life and liberty, privacy is not absolute. The limitations which operate on the right to life and personal liberty would operate on the right to privacy. Any curtailment or deprivation of that right would have to take place under a regime of law. The procedure established by law must be fair, just and reasonable. The law which provides for the curtailment of the right must also be subject to constitutional safeguards.

Justice Jasti Chelameswar – Para 375

> **"375.** All liberal democracies believe that the State should not have unqualified authority to intrude into certain aspects of human life and that the authority should be limited by parameters constitutionally fixed. Fundamental rights are the only constitutional firewall to prevent State's interference with those core freedoms constituting liberty of a human being. The right to privacy is certainly one of the core freedoms which is to be defended. It is part of liberty within the meaning of that expression in Article 21."

Justice S.A.Bobde – Paras 428.2 and 428.3

> **"428.2.** The right to privacy is inextricably bound up with *all* exercises of human liberty—both as it is specifically enumerated across Part III, and as it is guaranteed in the residue under Article 21. It is distributed across the various Articles in Part III and, mutatis mutandis, takes the form of whichever of their enjoyment its violation curtails.

428.3. Any interference with privacy by an entity covered by Article 12's description of the "State" must satisfy the tests applicable to whichever one or more of the Part III freedoms the interference effects."

Justice R.F.Nariman – para 526

"526. But this is not to say that such a right is absolute. This right is subject to reasonable regulations made by the State to protect legitimate State interests or public interest. However, when it comes to restrictions on this right, the drill of various articles to which the right relates must be scrupulously followed. For example, if the restraint on privacy is over fundamental personal choices that an individual is to make, State action can be restrained under Article 21 read with Article 14 if it is arbitrary and unreasonable; and under Article 21 read with Article 19(1)(*a*) only if it relates to the subjects mentioned in Article 19(2) and the tests laid down by this Court for such legislation or subordinate legislation to pass muster under the said article. Each of the tests evolved by this Court, qua legislation or executive action, under Article 21 read with Article 14; or Article 21 read with Article 19(1)(*a*) in the aforesaid examples must be met in order that State action pass muster. In the ultimate analysis, the balancing act that is to be carried out between individual, societal and State interests must be left to the training and expertise of the judicial mind."

Justice A.M. Sapre – 557

"557. In my considered opinion, "right to privacy of any individual" is essentially a natural right, which inheres in every human being by birth. Such right remains with the human being till he/she breathes their last. It is indeed inseparable and inalienable from human being. In other words, it is born with the human being and extinguishes with human being."

Justice Sanjay Kishan Kaul – Paras 639 and 650

> **639.** The right to privacy as already observed is not absolute. The right to privacy as falling in Part III of the Constitution may, depending on its variable facts, vest in one part or the other, and would thus be subject to the restrictions of exercise of that particular fundamental right. National security would thus be an obvious restriction, so would the provisos to different fundamental rights, dependent on where the right to privacy would arise. The public interest element would be another aspect.
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> **650.** Let the right to privacy, an inherent right, be unequivocally a fundamental right embedded in Part III of the Constitution of India, but subject to the restrictions specified, relatable to that part. This is the call of today. The old order changeth yielding a place to new."

15) The final conclusions of this landmark judgement are in para 652, which are reproduced hereunder –

> "652. The reference is disposed of in the following terms:
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> 652.1. The decision in M.P. Sharma [M.P. Sharma v. Satish Chandra, AIR 1954 SC 300] which holds that the right to privacy is not protected by the Constitution stands overruled;
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> 652.2. The decision in Kharak Singh [Kharak Singh v. State of U.P., AIR 1963 SC 1295] to the extent that it holds that the right to privacy is not protected by the Constitution stands overruled. 652.3. <u>The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution</u>.
>
> 652.4. Decisions subsequent to Kharak Singh [Kharak Singh v. State of U.P., AIR 1963 SC 1295] which have enunciated the position in para 652.3, above lay down the correct position in law."

16) Thus, in view of this authoritative pronouncement of the Hon'ble Supreme Court of India the right to privacy is now recognized as a Fundamental Right. It is an "inherent right", an "intrinsic right" that always exists and has been classified as a "primordial natural right". Therefore, it is crystal clear that the police orders or police action will have to be tested against the touchstone of the conclusions in this landmark judgement.

17) Justice R.F.Nariman in his book 'Discordant Notes' called Justice Koka Subba Rao as the Guardian of Fundamental Rights and as one of the Four Horsemen of the Apocalypse for foreseeing the future tribulations. This guardian angel's dissent in ***Kharak Singh case (3 supra)*** has been expressly approved in ***K.S.Puttaswamy case (2 supra)***. This dissent as approved is the core of the submissions of many counsels and particularly Sri Raja Reddy K. On this basis he fervently submits that any surveillance without the backing of law is a clear infringement of Act 19 of 2021. He lays stress on the conclusions in para-32/33 and argues that the "whole state" is a prison / jail if a person is under surveillance.

18) Actually a closer examination reveals that even before ***K.S.Puttaswamy (2 supra)*** the march of law in declaring "privacy" as a fundamental law is clearly visible from the following judgments:

19) In ***People's Union for Civil Liberties (PUCL) v. Union of India***[16] it was held in para 17 as follows:

> "17. We have, therefore, no hesitation in holding that right to privacy is a part of the right to 'life' and 'personal liberty' enshrined under Article 21 of the Constitution. Once the facts in a given case constitute a right to privacy, Article 21 is attracted. The said right cannot be curtailed 'except according to procedure established by law'."

20) In ***Ramlila Maidan Incident, In re***[17] it was held as follows:

> **"309.** Privacy and dignity of human life has always been considered a fundamental human right of every human being like any other key values such as freedom of association and freedom of speech. Therefore, every act which offends or impairs human dignity tantamounts to deprivation pro tanto of his right to live and the State action must be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights. (Vide *Francis Coralie Mullin* v. *UT of Delhi* [(1981) 1 SCC 608 : 1981 SCC (Cri) 212 : AIR 1981 SC 746].)
>
> **311.** The citizens/persons have a right to leisure, to sleep, not to hear and to remain silent. **The knock at the door, whether by day or by night, as a prelude to a search without authority of law amounts to be police incursion into privacy and violation of fundamental right of a citizen.** (See *Wolf* v. *Colorado* [93 L Ed 1782:338 US 25 (1949)] .)
>
> **312.** Right to privacy has been held to be a fundamental right of the citizen being an integral part of Article 21 of the Constitution of India by this Court. Illegitimate intrusion into privacy of a person

[16] (1997) 1 SCC 301
[17] (2012) 5 SCC 1

> is not permissible as right to privacy is implicit in the right to life and liberty guaranteed under our Constitution. Such a right has been extended even to woman of easy virtues as she has been held to be entitled to her right of privacy. However, right of privacy may not be absolute and in exceptional circumstance particularly surveillance in consonance with the statutory provisions may not violate such a right."

21) ***K.S.Puttaswamy case (2 supra)*** dealt with all the issues raised and finally concluded the matter.

22) Once "privacy" is declared as a Fundamental Right law and any restriction is to be imposed on this primordial, intrinsic, natural Right can only be in terms of a "law" which meets the rigor of Article 13, which occurs in Part-III of the Constitution of India.

23) Articles 13 (2) and 13 (3) are reproduced hereunder:

> "13. (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
>
> (3) In this article, unless the context otherwise requires—
>
> (a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
>
> (b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas."

24) Any such law which will or can place a restriction on this right of privacy shall also have to meet the following triple test as laid down in ***K.S.Puttaswamy case (2 supra)*** –

(i) **Legality,** which postulates the existence of law;

(ii) **Need,** defined in terms of a legitimate State aim; and

(iii) **Proportionality**, which ensures a rational nexus between the objects and the means adopted to achieve them."

(iv) In addition, procedural guarantees against abuse should also be present.

25) Therefore, unless and until these tests or these thresholds are crossed the police in the State of Andhra Pradesh cannot deprive a man of his right to privacy with the Police Standing Orders.

26) The Police Standing orders in the State of AP were introduced as per G.O.Ms.No.308, dated 09.02.1960, amended/updated by G.O.Ms.No.201, dated 08.09.2001 and lastly revised on 14.02.2017. This is the current / prevalent version. It is stated very clearly in these three G.Os., that these orders are only "guidelines".

27) Admittedly, as per G.O.Ms.No.19, dated 14.02.2017, the Manual with the Standing Orders are finally revised. It is stated very clearly in clause (1) - that these "Standing Orders" in the Manual do not supersede any statutory rules, regulations etc. As per Clause (2) these orders

do not vest the police officers with any power not specifically conferred with the Cr.P.C., I.P.C., etc. It is clear that the Manual is only a guideline and procedure for all the police officers. Thus (apart from the authoritative case law) it is clear that the Police Standing Orders do not have any statutory force. They are not even regulations and are mere departmental instructions. It is clearly spelt out in all the three G.O.s, mentioned above that they will not supersede any rule or regulation. They are admittedly not framed under the Police Act, 1861 or any other such law.

28) As far as sufficiency of pleadings issue is concerned, this Court is of the opinion that sufficient pleadings have been raised. Infringement of Articles 14, 19 and 21 is specifically mentioned in many of the Writ Petitions. Even otherwise, the parties had ample opportunity spread over days for arguing the issue. The case law cited and considered makes it clear that the issue of infringement of Fundamental Rights was argued. All the facts necessary for determination are before this Court. Therefore, this Court holds that the adequacy of pleadings issue is not very material. This Court also draws the support from ***Union of India v Khas Karanpura Colliery Co. Ltd.,***[18] and ***Kedar Lal Seal v Hari Lal Seal***[19]**.**

[18] AIR 1969 SC 125
[19] AIR 1952 SC 47

29) Therefore, as far as the State of Andhra Pradesh is concerned –

a) It is reiterated that the Police Standing Orders do not have the force of law and they cannot be used as the means or the justification for opening and continuation of rowdy sheets. They are mere administrative guidelines.

b) Already in ***Mohammed Qadeer case (5 supra)***, ***Sunkara Satyanarayana case (6 supra)***, the Courts have held that these Standing Orders do not have force of law. These judgments have become final and have not been challenged. Therefore, there is no need for further 'declaration' on this as mentioned earlier.

c) Once the Police Standing Orders are held / declared to be without any statutory force in the State of Andhra Pradesh it is not necessary or needed for a party to seek a *de novo* declaration that the Standing Orders are contrary to law. However, such a prayer is made in W.P.No.3568 of 2022 and an Interlocutory Application (I.A.No.2 of 2022) was also filed to amend the prayer. The said application is also allowed and the prayer is amended. That such regulations/orders are bordering on unconstitutionality is noticed by the

Hon'ble Supreme Court of India also in 1975 itself. ***(Gobind case – 9 supra).***

d) The Police Standing Orders do not also pass the tests stipulated in ***K.S.Puttaswamy case (2 supra).***

e) The issues of infringement of Fundamental Rights are raised in many of these cases. That domiciliary visits are continuing is alleged. Display of photographs is also alleged. Summoning to the Police Station; being asked to wait for hours; branding a person as "rowdy" contrary to law etc., are all urged. Difficulties faced for simple issues like getting a passport due to the pendency of a rowdy sheet are also urged. Persons involved in a single but simple offence are branded as habitual offenders. There are also glaring violations and disobedience of the judicial orders passed. Application of mind is not visible as per PSO 600(2) etc., and periodic review as per PSO 602 (1 and 2) is also not visible.

30) However, the compelling State interest, which is so well argued and articulated by Sri G. Maheswar Reddy, learned Government Pleader for Home, cannot be totally lost sight of by this Court and needs to be answered. This compelling State interest is the need of the State and the police to prevent the crime. The "surveillance" and the opening of rowdy sheets is

justified by the learned Government Pleader for Home on the ground that the collection of this data and information is necessary for the purpose of detection of a crime before it occurs.

31) This Court cannot be oblivious to this compelling State need or that this procedure has been in vogue for decades. However, it must be said again that the efforts to "prevent" crime do not meet the test of law. The issue is about the use / misuse of the information and the abuse of power. Unobtrusive surveillance, gathering of information through lawful means was not prohibited. In fact, it was held necessary to prevent crime in the earlier cases. The indiscriminate use of this information; the night visits; frequent calling to the police station; display of photographs is the issue, despite the clear judgments.

32) Sri Maheswar Reddy, learned Government Pleader for Home sought to get over the judgment of ***K.S.Puttaswamy*** (2 supra) by stating that the factual context in the said judgment is different. He also relied upon the compilation of judgments which he had furnished including the judgments of ***Gobind*** and ***Malak Singh cases (9 and 1 supra)*** etc., to substantiate his case that these judgments of Hon'ble Supreme Court permitted certain actions of the Police like surveillance etc. Therefore, he sought to justify the police action in the present case. In the case of ***Gobind*** (9 supra), the Hon'ble Supreme Court found that the regulations were traceable to

Section 46(2) (c) the Police Act. In ***Malak Singh's case (1 supra)***, the vires of the rules was not challenged. However, in the State of Andhra Pradesh, it is clear the standing orders are not framed under any statute. They were already held to be without any statutory force. Apart from this, it is noticed by close analysis of the judgment of the learned Judges in ***K.S.Puttaswamy (2 supra)*** that their Lordships considered the entire law on the subject. Issues about privacy/surveillance etc., were raised in the submissions of the learned counsels and also considered by the learned Judges. The lead judgment of Justice Dr.D.Y.Chandrachud discusses the upholding of the minority view in ***Kharak Singh case (3 supra)*** etc., by the judgments in *Rustom Cavasjee Cooper v. Union of India etc.*. He clearly points out in para 22 by supplying emphasis that the minority view in ***Kharak Singh case (3 supra)*** case was upheld in ***Maneka Gandhi v Union of India***[20] case. Thereafter, from paras 51 to 104, there is a discussion about the various judgments on the subject including ***Gobind*** and ***Malak Singh cases (9 and 1 supra)*** etc. His Lordship further traced the growth of law under various heads and ultimately while discussing 'discordant notes'; in the case of *ADM Jabalpur,* he quoted the dissenting opinion of His Lordship *H.R.Khanna* and clearly held that even in the absence of Article 21, it would not be permissible for the State to deprive a person of his life and liberty without the

[20] (1978) 1 SCC 248

authority of law. Thereafter, His Lordship held that *ADM Jabalpur* has to be overruled. After further examining the matter and the growth of law including a comparative study with the law in other countries, in para 326 His Lordship held as follows:

> "326. Like other rights which form part of the fundamental freedoms protected by Part III, including the right to life and personal liberty under Article 21, privacy is not an absolute right. A law which encroaches upon privacy will have to withstand the touchstone of permissible restrictions on fundamental rights. In the context of Article 21 an invasion of privacy must be justified on the basis of a law which stipulates a procedure which is fair, just and reasonable. The law must also be valid with reference to the encroachment on life and personal liberty under Article 21. An invasion of life or personal liberty must meet the three-fold requirement of (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate state aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them;"

33) Thereafter, His Lordship Justice Jasti Chelameswar did a very similar analysis and proceeded to examine the salient features of the minority view in ***Kharak Singh case (3 supra)*** at para 342. He endorsed the view expressed by Justice Nariman and thereafter analysed the law on the subject. Ultimately, in para 374 and 375 his lordship held as follows page 531:

> "374. I do not think that anybody in this country would like to have the officers of the State intruding into their homes or private property at will or

> soldiers quartered in their houses without their consent. I do not think that anybody would like to be told by the State as to what they should eat or how they should dress or whom they should be associated with either in their personal, social or political life. Freedom of social and political association is guaranteed to citizens under Article 19(1)(c). Personal association is still a doubtful area. The decision making process regarding the freedom of association, freedoms of travel and residence are purely private and fall within the realm of the right of privacy. It is one of the most intimate decisions.
>
> 375. All liberal democracies believe that the State should not have unqualified authority to intrude into certain aspects of human life and that the authority should be limited by parameters constitutionally fixed. Fundamental rights are the only constitutional firewall to prevent State's interference with those core freedoms constituting liberty of a human being. The right to privacy is certainly one of the core freedoms which is to be defended. It is part of liberty within the meaning of that expression in Article 21."

34) All the other learned Judges also agreed with the conclusions.

35) Therefore, the contention of learned Government Pleader that the Police Standing Orders cannot be struck down only on the findings of ***K.S.Puttaswamy (2 supra)*** does not appear to be correct. ***K.S.Puttaswamy's case (2 supra)*** is not merely relating to "data protection or aadhar card". The entire gamut of issues involving 'privacy' has been discussed and concluded. The cases relied on by the State in the present batch and issues of surveillance *vis-a-vis* 'privacy' were elaborately discussed. Therefore, since this is the now law of

the land, as declared by the Constitution Bench, it has to be followed.

36) The decision of the Hon'ble Supreme Court of India in ***Government of Andhra Pradesh and Ors., v P. Laxmi Devi***[21] gives a useful direction to this Court to conclude this issue.

> **"34.** In India the grundnorm is the Indian Constitution, and the hierarchy is as follows:
> (*i*) The Constitution of India;
> (*ii*) Statutory law, which may be either law made by Parliament or by the State Legislature;
> (*iii*) Delegated legislation, which may be in the form of rules made under the statute, regulations made under the statute, etc.;
> (*iv*) Purely executive orders not made under any statute.
>
> **35.** If a law (norm) in a higher layer in the above hierarchy clashes with a law in a lower layer, the former will prevail. Hence a constitutional provision will prevail over all other laws, whether in a statute or in delegated legislation or in an executive order. The Constitution is the highest law of the land, and no law which is in conflict with it can survive. Since the law made by the legislature is in the second layer of the hierarchy, obviously it will be invalid if it is in conflict with a provision in the Constitution (except the directive principles which, by Article 37, have been expressly made non-enforceable).

37) The duty of a Constitutional Court is also spelt out in this very judgment as follows:

> **90.** It may be noted that there were no fundamental rights in the Government of India Act, 1935. The Founding Fathers of our Constitution, who were also

[21] (2008) 4 SCC 720

freedom fighters for India's Independence, knew the value of these rights, and that is why they incorporated them in the Constitution.

91. It must be understood that while a statute is made by the peoples' elected representatives, the Constitution too is a document which has been created by the people (as is evident from the Preamble). The courts are guardians of the rights and liberties of the citizens, and they will be failing in their responsibility if they abdicate this solemn duty towards the citizens. For this, they may sometimes have to declare the act of the executive or the legislature as unconstitutional.

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95. In *Ghani* v. *Jones* [(1970) 1 QB 693 : (1969) 3 WLR 1158 : (1969) 3 All ER 1700 (CA)] Lord Denning observed: (All ER p. 1706 A-B)

"... A man's liberty of movement is regarded so highly by the law of England that it is not to be hindered or prevented except on the surest grounds."

96. The above observation has been quoted with approval by a Constitution Bench decision of this Court in *Maneka Gandhi* v. *Union of India* [(1978) 1 SCC 248] (vide SCC para 64 : AIR para 99).

....

98. ..... It is the solemn duty of the courts to uphold the civil rights and liberties of the citizens against executive or legislative invasion, and the court cannot sit quiet in this situation, but must play an activist role in upholding civil liberties and the fundamental rights in Part III, vide *Maneka Gandhi* v. *Union of India* [(1993) 1 SCC 22], *Joginder Kumar* v. *State of U.P.* [(1994) 4 SCC 260 : 1994 SCC (Cri) 1172 : AIR 1994 SC 1349] , *D.K. Basu* v. *State of W.B.* [(1997) 1 SCC 416 : 1997 SCC (Cri) 92 : AIR 1997 SC 610] , etc."

38) In view of the clear case law including but not limited to ***K.S.Puttaswamy case (2 supra)*** and the absolute

failure to follow the settled law this Court has to conclude as follows:

This collection of photos; the display of photos; branding a person as "rowdy"; summoning to the Police Station, parading / waiting domiciliary/home visits etc., as per the Police Station Orders are a direct infringement of the petitioners' right to privacy. Henceforth with the existing Police Standing Orders the police cannot do the same. The police cannot summon any person to the Police Station, visit any home or house for surveillance; for gathering information, take or display photographs, fingerprints etc., or even classify/ label a person as a ROWDY etc. They cannot carry out intrusive or obtrusive surveillance. ***Sunkara Satyanarayana case (6 supra)*** also has to be read subject to ***K. Puttaswamy (2 supra),*** which is by a Constitution Bench of the Supreme Court of India.

39) The judgements of the Learned Judges of the Telangana; Karnataka and Madras High Courts are not relied upon because the A.P. Police Standing Orders were declared by this High Court as 'non-statutory'. This Court is bound by the same. This Court has to hold that the same cannot be used as a justification for opening or continuing the rowdy sheets. The action of calling a person to the Police Station etc., taking photograph; display of photos etc., are thus a direct violation of Articles 14, 19 and 21 of the Constitution of India.

40) In addition, keeping in view the compelling state need for prevention of crime, the following directions are also issued:

(a) The State should either frame statutory rules or enact a law within a short time on these issues of surveillance etc., since there is a need for gathering information / intelligence to prevent crime. This should be done on a high priority. The comment made by the Hon'ble Supreme Court of India in ***Gobind case (9 supra)*** is that "In truth, legality apart, these regulations ill-accord with the essence of personal freedoms and the State will do well to revise these old police regulations verging perilously near unconstitutionality".

Even after about 45 years it transpires that the State did not revise the old Police regulations which were held to be very close to unconstitutionality". It is hoped that the State would urgently frame an appropriate law on this subject keeping in view the laws on the subject including the aspect of 'privacy' being declared a Fundamental Right.

(b) This Court also notices that Chapter-VII of the Cr.P.C., is hardly being invoked by the Police. This provides for obtaining security for keeping the peace and for good behaviour i.e., to prevent crime. The various Sections 106, 111 and other sections of this

Part of the Cr.P.C., are in the opinion of this Court enough to meet the apprehension of the police that they should know about the activities of the people, who are classified as rowdies etc., and for preventing crime. In fact, Sections 107 and 109 Cr.P.C., deal with people, who are likely to commit a crime, which is a cognizable offence or disturb the public tranquillity etc., and to take preventive steps. Similarly, Section 110 (a) to (g) of Cr.P.C., also deals with 'habitual offenders'. These Sections also provide some procedural safeguards. Their efficacy and use has been recognised and upheld in cases like ***Madhu Limaye v Sub-Divisional Magistrate***[22]**.** Therefore, for the present, this Court is of the opinion that if the Police are of the opinion that a check must be kept on the activities of the habitual offenders or others likely to commit a crime and to prevent a crime the provisions of this Chapter must be utilised. This is also clearly mentioned in Chapter 38 of the Police Manual but it is not followed. Similarly, the police can also encourage the people mentioned in Section 40 of the Cr.P.C., (with regard to villages and panchayats) to furnish the information as required under this Section.

[22] AIR 1971 SC 2486

(c) The provisions of other laws like the A.P. Habitual Offenders Act 1962 can also be utilised for the registration of habitual offenders (Sec.3 and 4) collect their fingerprints, photographs, palm impressions, foot prints etc., (Sec.6) and also place restrictions on his movement (Sec.11).

(d) A further legal solution is also found in the Cr.P.C., (Identification) Act, 2022 (for short "Act 11 of 2022"). The objects of the Act are as follows:

> "An Act to authorise for taking measurements of convicts and other persons for the purpose of identification and investigation in criminal matters and to preserve records and for matters connected therewith and incidental thereto."

(e) 'Measurement' is defined in Section 2(b) of Act 11 of 2022 as follows:

> "measurements" includes finger-impressions, palm-print impressions, foot-print impressions, photographs, iris and retina scan, physical, biological samples and their analysis, behavioural attributes including signatures, handwriting or any other examination referred to in section 53 or section 53A of the Code of Criminal Procedure, 1973"

(f) Section 3 is as follows:

> "3. Any person, who has been —
> (a) convicted of an offence punishable under any law for the time being in force; or
> (b) ordered to give security for his good behaviour or maintaining peace under section 117 of the Code of Criminal Procedure, 1973 for a proceeding under section 107 or section 108 or section 109 or section 110 of the said Code; or

> (c) arrested in connection with an offence punishable under any law for the time being in force or detained under any preventive detention law, shall, if so required, allow his measurement to be taken by a police officer or a prison officer in such manner as may be prescribed by the Central Government or the State Government:
>
> Provided that any person arrested for an offence committed under any law for the time being in force (except for an offence committed against a woman or a child or for any offence punishable with imprisonment for a period not less than seven years) may not be obliged to allow taking of his biological samples under the provisions of this section.

(g) Section 5 is as follows:

> "Where the Magistrate is satisfied that, for the purpose of any investigation or proceeding under the Code of Criminal Procedure, 1973 or any other law for the time being in force, it is expedient to direct any person to give measurements under this Act, the Magistrate may make an order to that effect and in that case, the person to whom the order relates shall allow the measurements to be taken in conformity with such directions".

41) Section 5 provides for judicial intervention / supervision and thus there are certain inherent safeguards in this to meet the legal due process test.

42) These suggestions are made as the provisions of the existing laws mentioned above give enough scope for the police to gather the information and also to take action necessary for the purpose of prevention of crime.

43) The correct method is to enact a "law" permitting the surveillance etc., for gathering information only.

44) It is also made clear that in view of the authoritative pronouncements of the Hon'ble Supreme Court of India ending with the case of ***K.S.Puttaswamy case (2 supra)*** and as the Police Standing Orders are not law and do not meet the rigorous standards prescribed, the summoning to the station, intrusive surveillance, display of photographs etc., will amount to a breach of the Fundamental Right of privacy. It will also amount to wilful disobedience of the order of the Hon'ble Supreme Court of India, which is the law of the land. It will also be a violation of the earlier orders passed by this Court. The officers who are not party to these writs may also be is contempt of court if they still follow the A.P. Police Standing Orders.

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 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 (2 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.

46) In the circumstances, there shall be no order as to costs. Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

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D.V.S.S.SOMAYAJULU, J

Date:15.07.2022
Note: LR copy be marked.
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