

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NO.36932 OF 2012

DATED 31st AUGUST, 2015

Between:

Syed Ali Murtuza Hussain

.. Petitioner

and

The Commissioner of Police, Basheerbagh,
Hyderabad and another

.. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.36932 OF 2012

ORDER

The grievance of the petitioner was as to the opening of a suspect sheet in his name on the file of Humayunnagar Police Station, Hyderabad, despite his acquittal in two cases. By letter dated 23.05.2012, the Inspector of Police, Humayunnagar Police Station, informed the petitioner's father-in-law that a suspect sheet was being maintained in the name of the petitioner upon his involvement in Crime Nos.136 of 2011, 1385 of 2008, 1218 of 2002 and 229 of 2005 registered on the files of different police stations.

The Station House Officer, Humayunnagar Police Station, Hyderabad, filed a counter-affidavit stating that the petitioner was involved in Crime No.308 of 2002 which was registered under Sections 323, 365 and 506 IPC on the file of Banjara Hills Police Station but he was acquitted by judgment dated 16.02.2005 rendered by the competent Criminal Court in C.C.No.1218 of 2002. He was also involved in Crime No.229 of 2005 registered under Sections 380 and 467 IPC on the file of Jubilee Hills Police Station but he was acquitted in the said crime also. The third offence in which the petitioner was stated to have been involved in is Crime No.1385 of 2008 registered under Sections 380 and 457 IPC on the file of Banjara Hills Police Station but he was admittedly acquitted in this crime also on 24.12.2013. The last crime in which the petitioner was stated to have been involved in is Crime No.136 of 2011 under Sections 107 Cr.P.C. wherein he was bound over for a period of six months and the proceedings were dropped on 14.03.2012. According to the Station House Officer, Humayunnagar Police Station, the suspect

sheet was opened in the name of the petitioner on the file of the said police station after obtaining prior permission from the authorities only on 23.03.2012. The Station House Officer admitted that the petitioner had been acquitted in all the criminal cases by the competent criminal Courts after full-fledged trial. Despite the same, he stated that a close watch was required to be kept upon the unlawful activities of the petitioner and that no one was coming forward to lodge any complaint against him due to fear. This last statement is however not borne out by any material.

Order No.600 of the A.P. Police Manual, Part-I, Volume-II, deals with suspects and reads as under:

‘Suspects

600-1. The following persons should be classified as suspects and History Sheets shall be opened for them under the orders of the Superintendent of Police/SDPO.

- A. Persons once convicted under any section of the Indian Penal Code who are considered likely to commit crime again, and
- B. Persons, not convicted, but believed to be addicted to crime.
- C. Members of criminal gangs or organised criminal syndicates.
- D. Communal and Caste activists who are known to instigate, organise violence or spark off communal or caste riots.
- E. Smugglers, hoarders, blackmarketeers and for professional land grabbers.

2. Care should be taken to see that History Sheets are opened under this Order only for persons who are likely to turn out to be habitual criminals or who are members of organised crime syndicates or such organisations who had history or plan for violence and therefore, require close surveillance. The material and information collected to obtain orders from the SsP or other officers authorised to order opening of history sheets in this category should bring out the above requirements.’

Despite the Order itself stating that care should be taken while opening history sheets for suspects and it should be done only if the person is likely to turn out to be a habitual criminal, there is no evidence of any such care having been taken by the police authorities in the present case.

According to Sri Mohd. Muzaffer Ullah Khan, learned counsel for the petitioner, Crime Nos.229 of 2005 and 1385 of 2008 were registered against the petitioner only at the behest of his brother-in-law, who was inimical to him. He further states that owing to the suspect sheet opened against his client, his marriage ended in a divorce as his in-laws were also against him. This fact is also borne out by the fact that the police authorities issued letter dated 23.05.2012 upon the application made by the petitioner's father-in-law.

That apart, the admitted facts demonstrate that by the time the suspect sheet was opened in the name of the petitioner on the file of Humayunnagar Police Station, all the criminal cases registered against him had already ended. This Court has held time and again that unless a person is involved in more than two criminal cases, no inference can be drawn that he is a 'habitual offender' whereby the police authorities can take action [**KAMMA BAPUJI V/s. STATION HOUSE OFFICER, BRAHMASAMUDRAM (1997(6) ALD 583)** and **PUTTAGUNTA PASI V/s. COMMISSIONER OF POLICE, VIJAYAWADA (1998(3) ALT 55 (DB))**].

In the light of the aforestated facts, this Court finds no material to justify the finding of the police authorities that opening of a history sheet classifying the petitioner as a suspect was warranted on facts. The action taken by them in this regard is, in fact, violative of Order No.600(2) of the A.P. Police Manual, Part-I, Volume-II.

The writ petition is accordingly allowed. The respondents are directed to forthwith close the suspect sheet opened against the petitioner on the file of the Humayunnagar Police Station, Hyderabad. Pending miscellaneous petitions shall stand closed in the light of this

final order. No order as to costs.

SANJAY KUMAR, J

31st AUGUST, 2015
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