

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.41012 of 2016

S.Ramadoss @ Kutty

... Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai.
 2. The Deputy Commissioner of Police,
S1, St. Thomas Mount Police Station,
St. Thomas Mount, Chennai.
 3. Inspector of Police,
S1, St. Thomas Mount Police,
St. Thomas Mount, Chennai.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to remove the name of the petitioner from the History Sheet/Rowdie List maintained by the respondents 2 and 3 in S1 St. Thomas Mount Police Station.

For Petitioner : Mr.S.Xavier Felix

For Respondents : Mr. A.N.Thambidurai
Special Government Pleader

ORDER

This Writ Petition has been filed to to remove the name of the petitioner from the History Sheet/Rowdie List maintained by the respondents 2 and 3 in S1 St. Thomas Mount Police Station.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The case of the petitioner is that he has been kept in the history sheet from the year 2002. The respondents without following the procedure contemplated as per the Police Standing Orders 746 to 749, they have extended the history sheet every year and the Order as such is not maintainable. Therefore, the petitioner submitted a representation to the

respondents to remove his name from the history sheet. But till date it was not considered by the respondents. Hence, the petitioner has come forward with the present Writ Petition.

4. The learned Additional Government Pleader has submitted that as many as 14 cases are pending against the petitioner. In reply, the learned counsel for the petitioner submitted that out of the 14 cases, the first case has been closed as mistake of fact, the second case has also been closed as action dropped and 8, 5, 9 cases have ended in acquitted and in the cases pertaining to the year 2014, investigation is pending and charge sheet has not been filed.

5. In this context, I wish to follow the decision of the Division Bench of this Court reported in (Selvaraj Vs. The Inspector of Police and two others) MANU/TN/3746/2010, in which I am also a party, wherein the Division Bench has clearly directed the authority to follow the procedure as follows :

"16. In the above factual matrix, it is necessary to refer the PSO 746 of Tamil Nadu Police Standing Orders providing power for opening history sheets and it reads as follows :

PSO 746. Part-IV- History Sheets.

(1) Part V (Form No.111) shall contain the History Sheets of the persons resident permanently or temporarily in their station limits who are known or believed to be addicted to or to aid and abet the commission of crime, whether convicted or not or who are believed to be habitual receivers.

20. Therefore, in the light of the facts narrated and the legal precedents, it must be held that the actions of the respondents in all the three Writ Petitions are condemnable. Opening of the history sheets in the name of three petitioners are arbitrary, unreasonable and whimsical and it would amount to denial of right of citizens provided under Article 21 of the Constitution of India to have the right of privacy. Though opportunities were given to the respondents, they have not shown any credible materials to justify their action before this Court. The superior officer though had considerable responsibility to oversee such records have acted in a mechanical fashion to put their initials periodically without any verification.

9. The facts are different here. We have already extracted the information obtained under the Right to Information Act regarding the alleged past conduct of the Appellants and we cannot sit in appeal over this. The stand of the Respondents

is that the Appellants have indulged in rowdyism which has given rise to public complaint. But, even according to the Respondents the present case is the only case registered against the Appellants. Therefore, their continuance as History Sheetters shall be strictly in accordance with the Police Standing Orders. According to the Respondents, the History Sheetters movements are noted, their change of residences are monitored so as to curb the offenders. In *Menaka Gandhi v. Union of India* MANU/SC/0133/1978 : AIR 1978 SC 597, it has been observed :

The expression 'personal liberty' in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19.

10. In the present case, the history sheets were opened on 09.04.2006 and as per the police Standing Orders, it should come to an end with December, 2007. Neither the counsel for the Appellants nor the Government Advocate has the information regarding whether the history sheet has been continued after December 2007. Police Standing Orders indicate how and in what manner the history sheet can be continued. Therefore, the writ appeals are disposed of directing as follows :

If the History Sheets have come to an end with December, 2007, no further directions are necessary. Otherwise, the respondents shall strictly follow the above Police Standing Orders before passing any orders. No order as to costs. Connected M.P.(MD) No.2 of 2009 in all the Writ Appeals are closed."

6. Therefore, it is suffice to direct the second and third respondents to pass appropriate order in accordance with law following the above said judgment within a period of two months from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

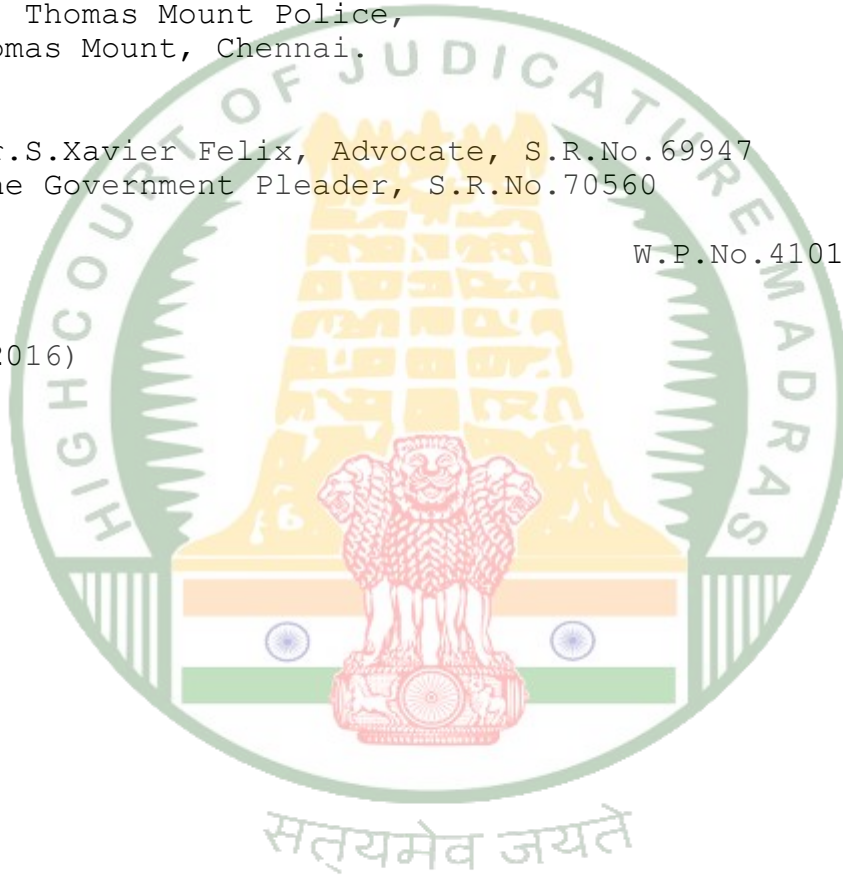
To

1. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai.
2. The Deputy Commissioner of Police,
S1, St. Thomas Mount Police Station,
St. Thomas Mount, Chennai.
3. The Inspector of Police,
S1, St. Thomas Mount Police,
St. Thomas Mount, Chennai.

+1cc to Mr.S.Xavier Felix, Advocate, S.R.No.69947
+1cc to the Government Pleader, S.R.No.70560

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RK(CO)
CA(20/12/2016)



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