



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

CrI.O.P. (MD) .No.9502 of 2016

K.Pandiyarajan

... Petitioner

-vs-

1. The Superintendent of Police,
Pudukottai District.
2. The Deputy Superintendent of Police,
Keeranur, Pudukottai District.
3. The Inspector of Police,
Annavasal Police Station,
Ilurpur Taluk,
Pudukottai District

... Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to direct the respondents to remove the name of the petitioner from the History Sheet maintained by the 3rd respondent at once.

For Petitioner : Mr.P.Ganapathi Subramanian

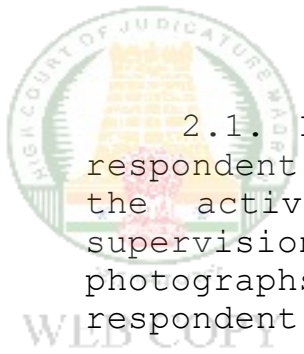
For Respondents : Mr.A.P.Balasubramani
Govt. Advocate (CrI.Side)

O R D E R

This petition has been filed seeking direction to the respondents to remove the name of the petitioner from the history sheet, maintained by the 3rd respondent, i.e. Inspector of Police, Annavasal Police Station, Pudukkottai District.

Brief facts:

2. The petitioner is basically an agriculturist. Pursuant to the complaint of one Veeraperumal, alleging that the petitioner assaulted complainant's son Ravichandran, a case was registered in Crime No.99 of 2012 under Sections 452, 324 and 506(ii) IPC and the case is pending investigation.



2.1. In view of the pendency of the criminal case, the 3rd respondent has opened a history sheet against the petitioner and the activities of the petitioner are under monitoring and supervision by the 3rd respondent. Petitioner's name and photographs find place in H.S.No.381 on the file of the 3rd respondent.

2.2. The petitioner never indulged in any activity that disturbed public peace and tranquillity. He is a law abiding citizen. There is no complaint from the public alleging unlawful act on the part of the petitioner. Without authority and justification, the 3rd respondent has opened a History Sheet. **History sheet can be opened in case of convicted prisoner by the Inspector of Police.** In this case, the petitioner is not a convicted prisoner.

2.3. In case of suspected prisoner, the 1st respondent / Superintendent of Police is the competent authority to open history sheet. Since the petitioner is not a convicted person, history sheet cannot be opened except without the prior order of the 1st respondent.

2.4. In case of suspect persons, history sheet can be closed at the end of December in the corresponding year, in which history sheet was opened. So far as the case of the petitioner is concerned, history sheet was opened against him in the month of July, 2012, but not yet closed.

2.5. Alleging that due to the pendency of the history sheet, the reputation of the petitioner has been affected, the petitioner gave a representation dated 16.12.2015. As no order has been passed, the petitioner has invoked the extraordinary jurisdiction of this Court seeking removal of the name of the petitioner from the history sheet.

3. The claim made by the petitioner herein is refuted by the 3rd respondent on the following grounds:

3.1. The case registered against the petitioner has been found out to be true after investigation and charge sheet has been filed under Sections 452 and 307 IPC on 21.07.2012;

3.2. History sheet has been opened in respect of the petitioner based on the recommendation of the 2nd respondent and orders of the 1st respondent and he is put on supervision.

3.3. History sheet has been opened as per the Police Standing Order 779(2). Due to criminal activity of the petitioner causing insecurity among the people of the locality, history sheet has been opened, which is justifiable.



4. The case of the petitioner is that the opening up of history sheet itself is against law and therefore, it should be ordered to be scrapped; in any event, there is no justification to keep it pending without being closed.

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5. The 3rd respondent justifies the inclusion of the name of the petitioner in the history sheet by relying upon the Police Standing Order 779(2). In order to appreciate the contention, it is necessary to look into the provisions of PSO 779(2) [New Order No.PSO 749(2)]:

"(1) -- (a) -- (b) --

(2) The following persons may be classified as rowdies and Rowdy Sheets (Form No.112) may be opened for them under the orders of the Superintendent or Sub-Divisional Officer.

(a) Persons who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace.

(b) Persons bound over under Section 106 and 107 Criminal Procedure Code.

(c) Persons who have been convicted under Section 75 of the Madras City Police Act or twice in two consecutive years under Section 3 Clause 12 of the Town Nuisance Act.

(d) Persons who are illicit distillers and known purveyors of liquor."

6. The provisions of PSOs.746, 748, 749, 751 and 758 are essential in order to appreciate the case of the petitioner.

6.1. Circumstances, under which a person can be history sheeted are impliedly provided in PSO. 746 Part IV, which reads as under:

(1) Part-V (Form-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;

7. Therefore, it is not necessary that a person should have been a convicted person in order to open a history sheet. It is

a) such a person is known or believed to be addicted



to the commission of the crime;

b) aid and abate the commission of the crime;

c) believed to be the habitual receiver.

8. Discontinuance of the person concerned from the history sheet is provided under PSO 748, under which, the Superintendent of police may order the closure of the history sheet **at any time**, but a Divisional Officer may do so only on the expiry of the period.

8.1. Period of retention of history sheets of suspects is provided under PSO 751. Who can be classified as suspects is provided under PSO 749? The following persons shall be classed as suspects and a history sheet can be opened for them under the orders of the Superintendent if,

a) persons once convicted under any section of IPC or considered to be likely to commit crime;

b) persons not convicted, but believed to be addicted to crime;

8.2. Under PSO 751, history sheets of suspects can be maintained from the date of registration upto the end of December, after which, orders of the rank of Assistant Superintendent of Police / Deputy Superintendent of Police is to be obtained.

9. Perusal of provisions of Police Standing Orders and synchorization of the facts with the provisions would go to show that neither the inclusion of the petitioner in the history sheet nor the retention of the same appears to be reasonable. There are no materials to show that the petitioner was,

a) known or believed to be addicted to the commission of the crime,

b) aid and abate the commission of the crime;

c) believed to be the habitual receiver.

10. Learned Government Advocate (Crl.Side) has submitted that no case has been registered against the petitioner after 2012.

11. It is the contention of the petitioner that on account of his name being included in the history sheet, he suffers loss of reputation in the society and his right to live with dignity remains tarnished. It is also pointed out that the petitioner is not able to enjoy the freedom from being fearless and this has been incorporated into his private life, thereby his right to privacy has been put under threat. In the absence of convincing materials to justify the retention of the petitioner in the



history sheet, the contention of the petitioner that his right to reputation and right to life is at stake has to be accepted.

12. For the foregoing reasons, this Criminal Original Petition is allowed. The respondent police are directed to remove the name of the petitioner from the history sheet maintained by the third respondent.

Sd/
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To:

1. The Superintendent of Police,
Pudukottai District.
2. The Deputy Superintendent of Police,
Keeranur, Pudukottai District.
3. The Inspector of Police,
Annavaasal Police Station,
Ilurpur Taluk,
Pudukottai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/S.P.GANAPATHI SUBRAMANIAN, Advocate SR.No.38285

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SMA/PV/22/08/2016 :5P/6C