

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on : November 10, 2016

+ CRL.M.C. 4330/2013
JAI KARAN

..... Petitioner

Through: Mr. Vaibhav Sharma, Mr. Sidharth
Singh Yadav, Mr. Aditya Singh,
Advocate

versus

STATE

..... Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

JUDGMENT

1. By this petition filed under Article 226/227 of the Constitution of India read with Section 482 of Cr. P.C. the petitioner is seeking quashing of the order passed by the Competent Officer of Police Station Sultan Puri, whereby the name of the petitioner was entered in Part II (Clause (b) of Surveillance Register maintained under Rule 23.4(3) of the Punjab Police Rules. The petitioner also seeks deletion of his name from the history sheet opened under Rule 23.9(2) of the Punjab Police Rules.

2. In brief, the facts of the case are that a case under Section

308/323/506/120B/34 of IPC was registered against the petitioner vide FIR No.1071/2006 in Police Station Sultanpuri, Delhi. Vide order dated 21.08.2012 passed by learned Additional Sessions Judge – 1 (Outer), Rohini Courts, Delhi, the petitioner was acquitted from the charges framed against him in the said case. The grievance of the petitioner is that he has been falsely implicated in 9 different cases registered vide separate FIRs in different Police Stations and despite being acquitted or discharged in all the said 9 cases, the competent officer of Police Station Sultanpuri has entered the name of the petitioner in Part II (Clause (b) of Surveillance register maintained under Rule 23.4(3) of the Punjab Police Rules. That's why the petitioner has filed the instant petition for seeking deletion of his name from the Surveillance register.

3. Learned counsel for the petitioner contended that the names of only those persons are required to be entered in Surveillance register, who are reasonably believed to be habitual offenders or receivers of stolen property. It is further contended that the mandate of Rule 23.4(3)(b) of the Punjab Police Rules comes with a rider which is explained in Rule 23.5 of the Punjab Police Rules, according to which, prior to entering the name of any person in Part II of the Surveillance register, a history sheet is required to be opened and if for the entries in the history sheet, the Superintendent is of the opinion that such person should be subjected to surveillance, only then his name is required to be entered in that register. The names of the persons, who have never been convicted or placed on security for good behavior

shall not be entered until the Superintendant has recorded definite reasons for doing so. It is the submission of the petitioner that the petitioner has been acquitted in all the cases pending against him and the name of the petitioner is entered in Surveillance register, without recording any definite reasons thereof. It is the further submission of the petitioner that the reasonable belief of a police officer that the suspect is a habitual offender or is a person habitually addicted to crime is sufficient to justify such action, however mere belief is not sufficient and the belief must be reasonable and on reasonable grounds.

4. Learned counsel for the petitioner further contended that the note following Rule 23.4 is instructive. It enjoins a duty upon the police officer to construe the Rule strictly and confine the entries in the surveillance register to the class of persons mentioned in the rule. Similarly, Rule 23.7 demands that there should be no illegal interference in the guise of surveillance, which has to be unobtrusive and within bounds.

5. Lastly, it is urged on behalf of the petitioner that the Punjab Police Rules in respect of entering the name of the petitioner in the surveillance register has been flagrantly misused by the police in his case, therefore the name of the petitioner is required to be deleted from the Surveillance Register. In support of the aforesaid contentions, learned counsel for the petitioner relied upon the judgment of this Court in Crl. W. No.167/2001 titled as ***Sarjeet Singh***

vs. Commissioner of Police and Ors., decided on 02.04.2002.

6. On the other hand, learned Additional Public Prosecutor for the State filed a status report stating therein that the petitioner has been found to be involved in various nature of crimes since 1987 including hurt, criminal intimidation, cheating etc and for this reason his name was entered in clause (b) of Part II of the register maintained under Rule 23.4(3)(b) of the Punjab Police Rules and a history sheet was also opened on 07.12.2006 vide History Sheet No.23 Bundle 'A' vide order of worthy DCP/NW.

7. The status report filed on behalf of the State further indicates that the conduct of the petitioner was verified and during this process it revealed that the petitioner has been named in FIR No.907/15 under Section 448/511/506/34 of IPC, Police Station Shahbad Dairy, Outer District, Delhi. The anticipatory bail filed in the said case was dismissed by this Court vide order dated 19.01.2016 and the petitioner was arrested on 26.04.2016 by the staff of Police Station Shahbad Dairy.

8. It is further stated in the status report that in compliance of the direction passed by this Court vide order dated 03.12.2015, History Sheet of the petitioner was reviewed and considering the gravity of offences committed by the petitioner and his addiction to crime, the surveillance of the petitioner was ordered to be continued for prevention of crime and to maintain peace and tranquility in the area.

9. I have heard the submission made by both the sides and also gone through the contents of the petition and the material placed on record.

10. The admitted facts of the case are that the petitioner was working in Delhi Police in 1982 and in the year 1987, first case being FIR No. 106/1987 under Section 448/506/34 of IPC was registered against him in Police Station Sultanpuri. A copy of brief history sheet in respect of the petitioner is also placed on record and there is an endorsement dated 07.12.2006 of the competent authority to the effect that *“such kind of accused shall be kept on strict surveillance. He has potential to become extortionist.”* The petitioner is also shown to be an accused in nine different cases registered at different Police Stations from 1987 to 2008. Apart from those cases, recently the petitioner has been named in FIR No. 907/2015 under Section 448/511/506/34 of IPC registered at Police Station Shahbad Dairy, Outer District, Delhi. The petitioner had applied for anticipatory bail, which was dismissed by this Court vide order dated 19.01.2016. It is further reported in the latest status report that after dismissal of the anticipatory bail application, the petitioner remained absconder and ultimately he was arrested in that case on 26.04.2016.

11. The history sheet in respect of the petitioner is also reported to have been reviewed vide directions given by this court on 03.12.2015 and considering the gravity of offences committed by the petitioner and his addiction to crime, the surveillance of the petitioner was

ordered to be continued for prevention of crime and to maintain peace and tranquility in the area.

12. The law regarding the order passed by the competent authority to enter the name of any person in the Surveillance Register is very clear according to which, for prevention of crime and to maintain peace and tranquility in the area, entering the name of any person in Surveillance Register is an administrative and non-judicial act and the enquiry in that regard is always confidential. However, when the name of any person is entered in the Surveillance register or is described as a history sheeter as the case may be, the person concerned is required to be informed of the fact. Simultaneously, the same is required to be periodically reviewed by the concerned authority and if it is found that the person is no more active criminal, his name be kept in Bundle B or only his personal file is to be maintained. There must be authentic record of the person to establish that he is habitually indulging in the criminal activities which demand supervision over his activities with a view to have a check on the crime. The competent authority must record reasons to keep a person's name in the surveillance register.

13. In the considered opinion of this court, the court cannot invoke its power under Section 482 or Cr. P.C. to quash the administrative order, especially when it is made for prevention of crime and to maintain peace and tranquility in the area. No doubt, one of the principles of judicial review is one of the basic structures of our Constitution and only if the order is violative of the Rules and the Act,

or is without application of mind or is mala fide, the court would certainly not hesitate to set aside such an order.

14. So far as the contention of the petitioner that he has not been convicted in any of the cases registered against him and therefore his name should not remain in the Surveillance register is concerned, this Court is of the opinion that for entering the name of any person in surveillance register, only a reasonable belief about a person being habitual addicted to crime is sufficient for a competent authority, irrespective of the fact whether or not such person is convicted in any case.

15. In ***Sarjeet Singh vs. Commissioner of Police and Ors., 2002 Cri.LJ 3824***, this court has dealt with the present issue in the following word:”

“From the aforesaid the conclusions can conveniently be drawn to be (a) before the name of a person is entered in the register of history sheets and surveillance register, it is not necessary to give him an opportunity of being heard (b) it is not necessary that person concerned must be convicted of certain offences but in that event reason must be recorded specifically to bring the name of such a person on the register referred to above (c) it is the satisfaction of the concerned officer and unless the order so passed in mala fide is without application of mind or his contrary to the strict provisions of Rules and the Act,

the High Court would not interfere (d) however the High Court in case where ingredient of (c) above is not satisfied would be within its powers to quash such order (e) if the name of a person is entered in any of the said registers and the entry is to be used against him he must be informed of it (f) the concerned person will have the right to represent and even show that he has since improved his conduct and that his name be deleted from the concerned register (g) in any case there should be a period review of the entries every six months from the date of the entry is made.”

16. From the careful scrutiny of the case, this court finds that the petitioner has not averred that the competent authority has put his name in Surveillance register with mala fide intention. This court also does not find any material on record to show that the petitioner had ever visited the competent authority for review of entry made in Surveillance register or has shown any fact regarding his improvement. As far as review by the competent authority is concerned, this court is informed that the petitioner has been named in FIR No. 907/2015 registered in Police Station Shahbad Dairy, Outer District, Delhi, which in the anticipatory bail application filed by the petitioner was dismissed by this court. As per the latest status report filed on behalf of the State, it is informed that in compliance of the directions passed by this court on 03.12.2015, History sheet of the petitioner was reviewed and considering the gravity of offences

committed by the petitioner and his addiction to crime, the surveillance of the petitioner was continued for prevention of crime and to maintain peace and tranquility in the area.

17. In the light of the aforesaid discussions, this Court does not find any scope to interfere the order passed by the competent authority regarding entering the name of the petitioner in the surveillance register. Resultantly, the present petition filed by the petitioner is dismissed.

NOVEMBER 10, 2016
pkb

(P.S.TEJI)
JUDGE

