

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2017

CORAM

THE HONOURABLE MR JUSTICE A.D. JAGADISH CHANDIRA

CRL.OP.No.1095 of 2013

Pallu Kumar @ Kumar

... Petitioner

Vs

1. The Commissioner of Police,
Chennai Police, Egmore,
Chennai -8.

2. The Deputy Commissioner of Police,
Kasimedu Range,
N-2, Kasimedu Range,
Chennai.

3. Inspector of Police,
N-2, Kasimedu Police Station,
Chennai.

... Respondents

PRAYER: The Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondents to remove the petitioner's name from the Rowdy List of N-2 Kasimedu Police Station, Chennai.

For Petitioner

:

Mr.P.G.Thiyagu

for Mr.M.Rajavelu

For Respondents

:

Mr.B.Ramesh Babu
Government Advocate
(Criminal Side)

ORDER

This petition has been filed to direct the respondents to remove the petitioner's name from the Rowdy List of N-2 Kasimedu Police Station, Chennai.

2. The petitioner submits that he is residing at Royapuram and he is working as a Mazdoor in Madras Port Trust and that he is married and blessed with two children. At the time of filing the petition, he was making wedding arrangements of his daughter Gayathri doing final year BDS course and his son was also working in a shipping agency.

3. It is further submitted that in the year 1997, for the offences under Sections 147, 148, 341, 302 r/w 149 of I.P.C a case was registered against the petitioner in Cr.No.1254/1997 and that he was arrayed as A11 in this case and thereafter, he was acquitted by the learned Fast Track Judge IV at Chennai on 03.02.2000. It is the case of the petitioner that he was again falsely implicated in Crime No.121 of 2004 for the offences under Sections 341, 395, r/w 397 and 506 (ii) of I.P.C and also later in Crime No.102 of 2005 for the offences under Sections 147, 148, 341, 323, 336, 427, 394, 397 and 506 (ii) of I.P.C.

4. In the above circumstances, the third respondent i.e., Inspector of Police, N-2 Kasimedu Police Station had opened a Rowdy Sheet for him and inspite of all the cases against him having ended in acquittal, his name has not been removed from the History Sheet/Rowdy Sheet and based on the pendency of the History sheet, the respondents were frequently visiting his house, which, thereby, caused loss of reputation to him and also damaged to the prospects of his daughter's marriage.

5. It is further case of the petitioner that he has been frequently summoned to the police station and that he was made to sit in the police station for two or three days for long hours without any proper reason. In the year 1997, he prayed to direct the respondents to remove his name from the Rowdy Sheet/History Sheet.

6. The learned counsel Mr.P.G.Thiyagu, appearing for the petitioner vehemently contended that a person's name should not be included in the History Sheet mechanically since it would affect freedom of life and liberty of citizen and that opening of History Sheet should be made strictly adhering to guidelines provided under standing orders and

that retaining a person's name in History Sheet without any material and without recording any reason is *per se* arbitrary and thereby the order of the third respondent is illegal and sought for setting aside the proceedings. It was further contended that the petitioner had sent a representation dated 08.12.2012 to the respondent to remove his name from the History Sheet whereas no action had been taken by the respondents. The counsel relied on the decision of this Hon'ble Court reported in **2010 (6) CTC 507** and prayed for quashing of the History Sheet opened against him.

7. The learned Government Advocate appearing for the respondents submitted that the petitioner was involved in the following cases:

Sl.No.	Police Stations and Crime Nos.	Section of Law
1.	N-2 Kasimedu Police Station Crime No.1842 of 1993	U/s 8 © r/w 21 NDPS Act
2.	N-2 Kasimedu Police Station Crime No.1254 of 1997	U/s 147, 148, 341, 302 IPC
3.	N-2 Kasimedu Police Station Crime No.1406 of 1997	U/s 341, 336, 427, 332, 307 IPC
4.	N-2 Kasimedu Police Station Crime No.99 of 2003	U/s 341, 395, 397, 506 (ii) IPC
5.	N-2 Kasimedu Police Station Crime No.102 of 2005	U/s 323, 427, 336, 307, 394 IPC
6.	B-1, North Beach Police Station Crime No.514 of 2008	U/s 75 C.P.Act, 7(1) C.L.A Act
7.	N-2 Kasimedu Police Station Crime No.829 of 2016	U/s 452, 307, 506 (ii) IPC and Section 4 of TNPHW Act. Under

Sl.No.	Police Stations and Crime Nos.	Section of Law
		Investigation.
8.	N-2 Kasimedu Police Station Crime No.398 of 2017	U/s 110 Cr.P.C.

8. However, the learned Government Advocate (Criminal Side) fairly conceded that all the cases listed in Serial Nos. 1 to 6 above have ended in acquittal and the only case which is pending against him is cited in Serial No.7 which is also under investigation. Though, it had been stated in the counter that still the petitioner has involved in so many cases and the third respondent police maintained the Rowdy Sheet against the petitioner till date, no cogent or proper materials have been furnished to support the contention of the third respondent the cases are pending against him. Other than that no other valid ground or reasoning has been stated for maintaining the H.S.No.27 of 1994 against the petitioner.

9. This Hon'ble Court in the case reported in 2010 (6) CTC 50 **Ganesan v. The District Superintendent of Police, Virudhunagar District and Others** held that the discretion conferred on the Police is both objective and subjective in nature.

" Police Standing Orders, P.S.Os.746,749 &748 - History

Sheets --- Opening of History Sheets --- Discontinuance of History
 Sheets --- Relevant factors --- Restrictions under Police Standing
 Order for opening History Sheets --- Inclusion of names thereof ---
 Discretion of Police Officers under standing Orders - Person's
 name should not be included in History Sheet mechanically since it
 would affect freedom of life and liberty of citizen --- Discretion
 conferred on Police if both objective and subjective in nature ---
 Discretion conferred on Police if both objective and subjective in
 nature --- Discretion of opening and retaining History Sheet should
 be based upon relevant records and materials --- Power conferred
 upon Police Officers should be based on sound Principle of
 Fairness and Reasonableness and in accordance with object
 sought to be achieved for opening or retaining a Rowdy Sheet ---
 Branding a person as a History -sheeted Rowdy mechanically
 under guise of prevention of crime is violative of Article 21 of
 Constitution of India - Opening of History Sheet should be made
 strictly adhering to guidelines provided under standing Orders -
 Retaining a person's name in History Sheet without any material
 and without recording any reason is per se arbitrary"

Taking into consideration, the facts on hand that the cases referred to
 above are either stale or having ended in acquittal, the police have not

shown any objective or subjective satisfaction with regard to the maintenance of the History Sheet which has been kept on pending for almost 23 years. In the above circumstances, this Court holds that the History Sheet initiated by the third respondent in H.S.No. 27/94 against the petitioner is bereft of details and lacks legal sanctity due to arbitrariness and is thereby set aside.

05.09.2017

Index : Yes/No

Internet : Yes

vv/msm

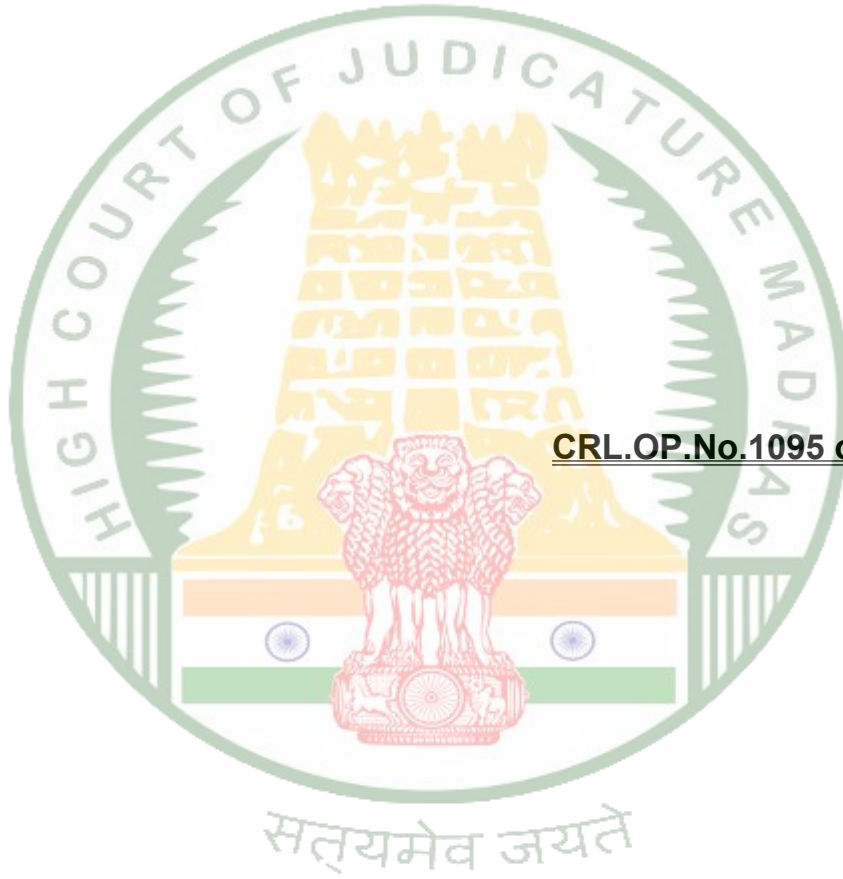
Note: Issue Order Copy on 04.10.2017

To

1. The Commissioner of Police,
Chennai Police, Egmore,
Chennai -8.
2. The Deputy Commissioner of Police,
Kasimedu Range,
N-2, Kasimedu Range,
Chennai.
3. Inspector of Police,
N-2, Kasimedu Police Station,
Chennai.
4. The Public Prosecutor
Madras High Court,
Chennai.

A.D. JAGADISH CHANDIRA, J

vv/msm



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