



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR**

W.P. (MD) Nos.17978 to 17980 of 2017

W.P. (MD) No.17978 of 2017

Sivalingam

... Petitioner

Vs.

The State rep. by

1.The Superintendent of Police,  
Pudukkottai District,  
Pudukkottai.

2.The Deputy Superintendent of Police,  
Office of Deputy Superintendent of Police,  
Keeranur Division,  
Pudukkottai District.

3.The Inspector of Police,  
Mathur Police Station,  
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein to remove the petitioner name from History Sheet record in H.S.No.57 of 2010 on the file of the 3rd respondent police station as per the petitioner representation dated 29.08.2017 within a time stipulated by this Hon'ble Court.

W.P. (MD) No.17979 of 2017

Panneer

... Petitioner

Vs.

The State rep. by

1.The Superintendent of Police,  
Pudukkottai District,



2.The Deputy Superintendent of Police,  
Office of Deputy Superintendent of Police,  
Keeranur Division,  
Pudukkottai District.

3.The Inspector of Police,  
Mathur Police Station,  
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein to remove the petitioner name from History Sheet record in H.S.No.60 of 2010 on the file of the 3rd respondent police station as per his representation dated 29.08.2017 within a time stipulated by this Hon'ble Court.

W.P. (MD) No.17980 of 2017  
S.Rajkumar

... Petitioner

Vs.

The State rep. by  
1.The Superintendent of Police,  
Pudukkottai District,  
Pudukkottai.

2.The Deputy Superintendent of Police,  
Office of Deputy Superintendent of Police,  
Keeranur Division,  
Pudukkottai District.

3.The Inspector of Police,  
Mathur Police Station,  
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein to remove the petitioner name from History Sheet record in H.S.No.55 of 2010 on the file of the 3rd respondent police station as per the petitioner's representation dated 29.08.2017 within a time stipulated by this Hon'ble Court.

For Petitioner : Mr.B.Jameel Arasu  
in all cases

For Respondents : Mr.A.K.Baskara Pandian  
in all cases Special Government Pleader

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COMMON ORDER

The petitioners have come forward with these Writ Petitions for issuance of Writ of Mandamus seeking a direction to the respondents 1 and 2 to remove the petitioners' name from the History Sheet record bearing Nos.57, 60 and 55 of 2010 respectively.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents. By consent, these Writ Petitions are taken up for hearing and disposed of at the admission stage itself.

3. The learned counsel appearing for the petitioners submitted that the petitioner in all the cases have given representations to the first respondent to remove their name from the History Sheet record. Though the petitioner in these cases stated that they have been falsely implicated in several criminal cases, this Court is not inclined to go into the details of the case or to decide the case on merits on the basis of the submission of the learned counsel for the petitioners. The learned counsel appearing for the petitioners relied upon a judgment of this Court in the case of *Ganesan v. District Superintendent of Police, Virudhunagar District, Virudhunagar and another* reported in (2011) 1 MLJ (Crl) 214, wherein it has been stated as follows:

"49. History sheet is ordinarily retained for two years, in the case of persons convicted of offences mentioned in Police Standing Order 747. Where retention of history sheet is considered necessary after two years of registration, orders of an officer of and above the rank of Assistant Superintendent of Police/Deputy Superintendent of Police, must be taken for extension in the first instance upto the end of the next December and further annual extension from January to December. Police Standing Orders, thus, makes it clear that the conduct and activities of history-sheeted persons shall be monitored for a specified period during which period, they should not come to any adverse notice and the authority empowered to extend the period of retaining his name in the history sheet, should have reason to believe that such history-sheeted person is habitually addicted to or aid or abet, the commission of offence.

50. Keeping surveillance or vigil on a history-sheeted person should not be made permanent, mechanically, as it would affect his freedom of life and liberty. The discretion conferred on the police is both objective and subjective in nature. Objective satisfaction with reference to the conduct of a history-sheeted person, to



prevent commission or aiding or abetting of offences, by such persons, involving breach of peace or law and order. The subjective satisfaction should be based on valid materials and it cannot be at the whims and fancies of the police officers. Reading of the Police Standing Order shows that the discretion conferred on the police officers is in-built, subject to the limitations, including a specific period, provided under the said orders and it is not for any unlimited period, unless the conduct of the history-sheeted person is required to be monitored continuously.

51.As the discretionary jurisdiction conferred on the Police Officers to open and retain a history sheet is to curtail his freedom and right of privacy, there should be awareness on the part of the authority and it should be on the basis of surveillance materials, where that a reasonable man would by probable reasoning arrive at a conclusion or infer that a person has to be necessarily included in the History sheet. 'Belief', in the case on hand, means a degree of conviction of the truth of something especially based on a consideration or examination of the evidence and the authorities vested with discretion of opening and retaining history sheets should prove that on the examination of the data that there is awareness on their part indicating their state of mind that by probable reasoning, they come to a conclusion or infer, about the conduct of person, for whom a History sheet is opened or retained. The record of events and the materials should be considered with care and the authority concerned should pass an order, reflecting that he has thought over the matter deliberately with care and it has been found necessary, as a result of such careful examination, an order opening or retaining a history sheet is required to be passed."

4.In view of the fact that the petitioners have already given representations to the first respondent, the first respondent is directed to consider the representation of the petitioners dated 29.08.2017 in the light of the judgment of this Court reported in (2011) 1 MLJ (Cr1) 214 (cited supra) and pass appropriate orders purely on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

5.With the above directions, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar(T&P)



To

1.The Superintendent of Police,  
Pudukkottai District,  
Pudukkottai.

2.The Deputy Superintendent of Police,  
Office of Deputy Superintendent of Police,  
Keeranur Division,  
Pudukkottai District.

3.The Inspector of Police,  
Mathur Police Station,  
Pudukkottai District.

+One cc to The Special Government Pleader, SR.No.80984

+3 ccs to Mr.B.Jameel Arasu, Advocate, SR.Nos.80427,  
80425, 80426

SRM

RL/8C/5P/KP/SAR1/28/9/2017

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21.09.2017