

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.28236 of 2018

Tarzan

...Petitioner

Versus

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

2.The Inspector of Police,
B-5, Manavalanagar Police Station,
Thiruvallur District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the History/Rowdy Sheet in H.S.No.3 of 2000, on the file of the Inspector of Police, B-5, Manavalanagar Police Station, Thiruvallur district and direct the 1st respondent to remove the name of the petitioner from the record of history sheet.

For Petitioner : Mr.V.Gopinath, Senior Counsel for
Mr.L.Mahendiran

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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O R D E R

This petition has been filed seeking to set aside the History Sheet in H.S.No.3 of 2000, on the file of the 2nd respondent Police.

2.Mr.V.Gopinath, learned Senior Counsel representing the counsel for the petitioner would submit that the petitioner is a law graduate, who had completed the course in the year 2015. Certain false cases were registered against the petitioner and the petitioner has been acquitted in all the cases. The learned Senior Counsel would further submit that the 2nd respondent

opened the History Sheet against this petitioner in the year 2000 and the same is being extended from time to time till today. Challenging the same, the present petition has been filed to set aside the History Sheet maintained by the 2nd respondent. The learned Senior Counsel would rely upon the Judgment of this Court in W.P(MD)No.19651 of 2017, dated 26.09.2018 in order to substantiate his arguments.

3.The learned Additional Public Prosecutor representing the respondent police would submit that eventhough the petitioner has been acquitted from the Criminal Case, the respondent Police has to keep surveillance on the movement of the petitioner and retention of the name of the petitioner in the History Sheet is being extended from time to time, as per the Police standing orders and therefore there is no ground to interfere with the retention the name of the petitioner in the History Sheet.

4.This Court has carefully considered the submissions made on either side. It is seen from the records that the petitioner had faced two cases that were registered by the respondent Police in Crime No.137 of 1999 and Crime No.160 of 1999. Both the cases have ended in acquittal in the year 2001 itself. Apart from these two cases there are no other case pending against the petitioner. The History Sheet was opened against the petitioner in the year 2000.

5.This Court had an occasion to deal with the issue of History Sheet and had given detailed guidelines with regard to the manner in which the History Sheet has to be maintained by the Police. The relevant portion of the Judgment is extracted here under:-

7.From the above judgments the following principles emerge insofar as history sheeters are concerned:

a. In order to facilitate the study of crime and criminals, the Police Standing Orders provides a mechanism, whereby every Police Station shall maintain a crime history, which shall be a confidential record. In this record all cases of crime that are mentioned in PSO No.742, which provides various classes of crime, shall be entered and even an attempt to commit those offences, are entered in the records maintained in the Police Station.

b. These crime records maintained by the Various Police Stations shall be reviewed every year by the Inspector of Police of the concerned Police Station. On such review, the Inspector of Police has to furnish a concise appreciation of the year's crime for the benefit

of the Superior Officers and also to make suggestions in order to improve the quality of crime control. The review undertaken by the Inspector of Police is not merely a catalogue of the crime in the year. It should reflect the valuable suggestions in order to prevent such crimes in future and to provide ways and means of handling serious offences in an effective manner.

c. History Sheet can be opened by the concerned Police Station under two circumstances. The first circumstance is provided under PSO No.746, which states that the history sheet can be opened against a person who is a resident (permanently or temporarily) within the station limit, who is known or believed to be addicted to commission of crime, whether convicted or not. Here the thrust is on the habituality or the propensity to commit a crime by a person, which is sought to be monitored by opening a history sheet.

d. The second category of persons against whom history sheet can be opened are the persons, who are convicted for various offences that has been listed in PSO No.747, wherein opening of the history sheet is automatic.

e. In the first category of opening history sheet, month wise scrutiny or a close watch on the person concerned is contemplated. Here also there is sub-categorization as, close watch bad characters and non-close watch bad characters. In the former, the entry shall be made month wise and in the later, the entry shall be made once in a quarter. What is entered is normally anything of interest in respect of the bad character, which goes to the notice of the Police. These records must be checked and brought upto date once in a year. Here the main thrust is on ?Current Doings?.

f. In the second category of opening history sheet, a mere act of conviction under the offences listed in PSO No.747 is enough. The name of the persons, who have been convicted for those offences can be retained for a period of two years after their release from jail.

g. PSO No.748, is the most important provision, which deals with discontinuance of history sheet. This provision is common to both

the categories falling under PSO Nos.746 and 747. As per PSO No.748, the Superintendent of Police may order a closure of a history sheet at any time. But, the Divisional Officer can order closure of history sheet only after the expiry of the period stipulated in PSO No.747.

h. As per PSO 748, where retention of the history sheet is considered to be necessary, even 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 for the first instance upto the end of next December. For further annual extension from January to December, separate orders must be passed every time by an Officer of and above the rank of Assistant Superintendent of Police / Deputy Superintendent of Police. This provision is made applicable even for rowdy sheeters.

i. For the purpose of passing such orders, there must be valid materials available on record and it cannot be passed on the whims and fancies of the Police Officers. Therefore, the authority empowered to extend the period of retention of the names of the persons in the history sheet, should record his reasons based on both objective and subjective instructions.

j. Branding a person as a history sheeted rowdy, taints the name and image of the person. It is true that the entire purpose of maintaining a history sheet is to ensure public peace. However, it should be balanced with the fundamental right guaranteed to every citizen under Article 21 of the Constitution of India. Therefore, a fair and reasonable decision, based on the materials, with sufficient reasons, becomes sine qua non to retain the name of a person as a history sheeted beyond the period stipulated in the Police Standing Orders.

k. This Court has time and again brought the above principle to the notice of the Higher Police Officials and in one of the judgments in Manivanan Vs. State represented by The District Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501, this Court felt that there is lack of understanding on the part of the Police in maintaining history sheet and therefore, directed the Director General of Police to issue necessary instructions /

guidelines / circulars with regard to the manner in which it has to be maintained and the manner in which the orders will have to be passed for extension of the period to continue a person as a history sheeter.

6.If the above principles are applied to the facts of this case, it is seen that this case does not fall under PSO No.747, since none of the conditions prescribed therein is satisfied in this case. Therefore this case will fall under PSO No.746. The F.I.R was registered against the petitioner in the year 1999 and the case has ended an acquittal in the year 2001. Subsequently, there were no cases pending against the petitioner. There are absolutely no materials to show that PSO No.748(2) was followed to retain the name of the petitioner till the year 2018 in the History Sheet. The guidelines given by this Court has not been followed in this case and retaining the name of the petitioner continuously from the year 2000 for the last 18 years is illegal and is violative of the Article 21 of the Constitution of India. When the petitioner made a representation dated 19.03.2018, the respondent Police should have atleast considered at that point of time, whether the name of the petitioner should be continued in the History Sheet. However, the respondent Police have chosen to keep the representation in the file without taking any decision. Therefore, this Court has to necessarily interfere with the same and has to protect the right and liberty of the petitioner.

7.In view of the above, this Criminal Original Petition is allowed and the proceedings of the 2nd respondent in retaining the name of the petitioner as an History Sheeter in H.S.No.3 of 2000 is hereby quashed and there shall be a direction to the 2nd respondent to remove the name of the petitioner from the records of History Sheet rowdies.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

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

2.The Inspector of Police,
B-5, Manavalanagar Police Station,
Thiruvallur District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Mahendiran, Advocate sr.no.83699

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