

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****ORDERS RESERVED ON : 18.09.2018****ORDERS PRONOUNCED ON: 26.09.2018****CORAM****THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

WP (MD) Nos.19651 of 2017, 14198, 14197, 14203, 16051, 16180, 17352, 17442, 18327 and 18373 of 2018, 19639 of 2017 and 19425 of 2018
WMP (MD) Nos.15927 and 15928 and 15915 of 2017, 15257, 15344, 16199 and 16251 of 2018

and

Cr1OP (MD) Nos.4496, 7467, 16468 of 2016 and 11849 and 14462 of 2017

SABARI @ SABARIGIRI

S/O.PONNUSAMY, DOOR NO.2/109A,

SUNDARARAJANPATTI, ALAGARKOVIL MAIN ROAD,

ARUMBANUR POST, MADURAI-625 104.

... PETITIONER in WP(MD) No.19651 of 2017

ALAGAR

S/O.MANNAR, DOOR NO.1/146, KONTHAGAL VILLAGE,

KONTHAGAI TIRUPUVANAM TALUK, SIVAGANGAI DISTRICT.

... PETITIONER in WP(MD) No.14198 of 2018

VEERASAMY

S/O.VEEERANAN, NO.166, NORTH STREET,

KONTHAGAI VILLAGE, KONTHANGAI,

THIRUPUVANAM TALUK, SIVAGANGAI.

... PETITIONER in WP(MD) No.14197 of 2018

KARTHIK, S/O.THAVAMANI,

DOOR NO.1/126, KONTHAGAI VILLAGE, KONTHAGAI,

THIRUPUVANAM TALUK, SIVAGANGAI DISTRICT.

... PETITIONER in WP(MD) No.14203 of 2018

K.MICHAEL KUMAR, S/O.KRISHNAN

SHIKAS MANDARAM, ALUVILAI, EDAICODU POST,

KANYAKUMARI DISTRICT.

... PETITIONER in WP(MD) No.16051 of 2018

PERIASAMY,

S/O.MANIKKALAI, NO.2/451, KONTHAGAI VILLAGE,

KONTHAGAI THIRUPUVANAM TALUK, SIVAGANGAI.

... PETITIONER in WP(MD) No.16180 of 2018

K.KENNEDY,

S/O.R.KAMARAJ, ALAGIYA NAMBIAR PURAM,

SOUTH STREET, PANANGUDI, RADHAPURAM TALUK,

TIRUNELVELI DISTRICT.

... PETITIONER in WP(MD) No.17352 of 2018

M.MARIKANNAN,

S/O.P.MARIYAPPAN, 2/31, NORTH STREET,

SEDAPATTI ROAD, ALAMPATTI,

THIRUMANGALAM TALUK, MADURAI.

... PETITIONER in WP(MD) No.17442 of 2018



LALSINGH,
S/O. SATHIYADASS, NO.482, MUNICIPAL COLONY,
KONAM POST, NAGERCOIL, KANYAKUMARI DISTRICT.

... PETITIONER in WP(MD) No.18327 of 2018

WEB COPY
DHANASEKARAN,
S/O. SHANMUGAM, DOOR NO. D447, KUPPUSAMY
ILLAM, JAHEER HUSSAIN STREET, ANNA NAGAR,
THENNOOR, TRICHY.

... PETITIONER in WP(MD) No.18373 of 2018

GOPAL, S/O.SEKAR,
DOOR NO.18/1, AYYAN PLOT,
VENKATESHWARA MAIN ROAD, SALIGRAMAM, CHENNAI.

... PETITIONER in WP(MD) No.19639 of 2017

RAJA,
S/O.PARAMASIVAM, 125A, PERUMAL EAST CAR
STREET, TIRUNELVELI JUNCTION 627 001.
TIRUNELVELI DISTRICT.

... PETITIONER in WP(MD) No.19425 of 2018
VS

1 THE ASSISTANT COMMISSIONER OF POLICE,
ANNANAGAR (L & O) RANGE, MADURAI CITY, MADURAI.

2 THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION, MADURAI.

3 THE INSPECTOR OF POLICE,
APPANTHIRUPATHI POLICE STATION, MADURAI.

... RESPONDENTS in WP(MD) No.19651 of 2017

1 THE DISTRICT COLLECTOR,
SIVAGANGAI DISTRICT, SIVAGANGAI.

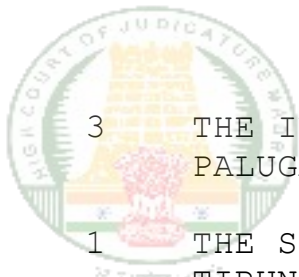
2 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT,

3 THE DEPUTY SUPERINTENDENT OF POLICE,
MANAMADURAI, SIVAGANGAI DISTRICT.

4 THE INSPECTOR OF POLICE,
THIRUPUVANAM POLICE STATION (L&O)
SIVAGANGAI DISTRICT.

... RESPONDENTS in WP(MD) No.14198 of 2018
AND WP(MD) No.14197 of 2018&14203 OF 2018
AND WP(MD) No.16180 of 2018

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.



3 THE INSPECTOR OF POLICE,
PALUGAL P.S. KANYAKUMARI DISTRICT.

... RESPONDENTS in WP(MD) No.16051 of 2018

1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI-2.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
VALLIYOOR, RADHAPURAM TALUK,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
PANANGUDI POLICE STATION, PANANGUDI,
RADHAPURAM TALUK, TIRUNELVELI DISTRICT.

4 THE SUB INSPECTOR OF POLICE,
PANANGUDI POLICE STATION, PANANGUDI,
RADHAPURAM TALUK, TIRUNELVELI DISTRICT.

... RESPONDENTS in WP(MD) No.17352 of 2018

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUMANGALAM DIVISION, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
THIRUMANGALAM TALUK POLICE STATION, MADURAI.

... RESPONDENTS in WP(MD) No.17442 of 2018

1 THE SUPERINTENDENT OF POLICE,
O/O. THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
O/O. THE DEPUTY SUPERINTENDENT OF POLICE,
NAGERCOIL, KANYAKUMARI DISTRICT.

3 THE INSPECTOR OF POLICE,
AASARIPALLAM POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.

... RESPONDENTS in WP(MD) No.18327 of 2018

1 THE COMMISSIONER OF POLICE,
TRICHY CITY, TRICHY.

2 THE ASSISTANT COMMISSIONER OF POLICE,
SRI RANGAM CIRCLE, TRICHY CITY.

3 THE INSPECTOR OF POLICE
THILLAI NAGAR POLICE STATION (L & O)



- 1 THE COMMISSIONER OF POLICE,
TRICHY CITY, TRICHY.
- 2 THE ASSISTANT COMMISSIONER OF POLICE,
SRI RANGAM CIRCLE, TRICHY CITY.
- 3 THE INSPECTOR OF POLICE
THILLAI NAGAR POLICE STATION (L & O)
TRICHY CITY.

... RESPONDENTS in WP(MD) No.19639 of 2017

- 1 THE GOVERNMENT OF TAMIL NADU
REP.BY THE HOME SECRETARY, FORT ST.GEORGE,
CHENNAI -9.
- 2 THE COMMISSIONER OF POLICE,
TIRUNELVELI CITY, TIRUNELVELI DISTRICT.
- 3 THE ASSISTANT COMMISSIONER OF POLICE (LAW & ORDER)
TIRUNELVELI CITY.
- 4 THE INSPECTOR OF POLICE,
JUNCTION POLICE STATION,
TIRUNELVELI JUNCTION, TIRUNELVELI & DISTRICT.

... RESPONDENTS in WP(MD) No.19425 of 2018

Prayer in WP(MD) No.19651 of 2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified mandamus to call for the records relating to the impugned history sheet in No.7/2011, quash the same and consequently direct the 1st respondent to close the history sheet and pass such further or other orders as this Honble Court.

Prayer in WP(MD) No.14198 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to remove the petitioners name from the History Sheet maintained by the 4th respondent in H.S.No.650 of 2017 within the period that may be stipulated by this Honble Court.

Prayer in WP(MD) No.14197 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus directing the respondents to remove the petitioner s name from the History Sheet maintained by the 4th respondent in H.s No.647 of 2017 within the period that may be stipulated by this Hon ble Court.



Prayer in WP(MD) No.14203 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus directing the respondents to remove the petitioner's name from the History Sheet maintained by the 4th respondent in H.S. No.649 of 2017 within the period that may be stipulated by this Hon ble Court.

Prayer in WP(MD) No.16051 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the respondents 1 and 2 to remove the petitioners name from the rowdy list maintained by the 2nd respondent vide no.8 of 2017 dated 24/06/2017 by considering his representation dated 19/01/2018.

Prayer in WP(MD) No.16180 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to remove the petitioners name from the History Sheet maintained by the 4th respondent in H.S.No.646 of 2017 within the period that may be stipulated by this Honourable Court.

Prayer in WP(MD) No.17352 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to Writ of declaration declaring that the Rowdy sheet/history sheet opened against the petitioner in Rowdy sheet number 413 dated 07.01.2008 on the file of the 3rd respondent Panangudi Police Station and the continuance of the same is void and illegal and consequently to direct the 3rd respondent to remove the petitioner name in the Rowdy sheet number 413 dated 07.01.2018 on the filed of the 3rd respondent Panangudi Police Station.

Prayer in WP(MD) No.17442 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the respondents to remove the name of the Petitioner from the Rowdy Sheet list maintained by the 3rd Respondent within the stipulated period.

Prayer in WP(MD) No.18327 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the Respondents to remove the petitioners name in the History Sheet in H.S.No. 16/2000 opened by the Respondent No.3.



Prayer in WP(MD) No.18373 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to remove the petitioners name from the History Sheet maintained by the 3rd respondent in H.S.No. 187 of 2006.

Prayer in WP(MD) No.19639 of 2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to remove the petitioners name from the History Sheet maintained by the 3rd respondent in H.S.No.193 of 2006 within the period that may be stipulated by this Honble Court.

Prayer in WP(MD) No.19425 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent No.2 to 4 to forthwith remove the petitioners name from the History Sheet maintained by the 4th respondent as well from Tirunelveli District List, on the basis of his representation dated 23.08.2018.

NARAYANAN

S/O.VETTUMPERUMAL NADAR, KARTHIKEYAN NAGAR,
REDDIYARPATTI, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

... PETITIONER in CRL OP(MD) No.4496 of 2016

R.SELVAM

S/O.RAMARAJ THEVAR, NO.260/50-A1,
VALLALAR NAGAR, S.N.PURAM ROAD, THIRUTHANGAL,
SIVAKASI, VIRUDHUNAGAR DISTRICT.

... PETITIONER in CRL OP(MD) No.7467 of 2016

SHANMUGARAJ,

S/O.BALAKRISHNAN, J.J.COLONY, METTU STREET,
ANNAVASAL, PUDUKKOTTAI DISTRICT.

... PETITIONER in CRL OP(MD) No.16468 of 2016

V.MUTHULINGAM,

S/O.VELLAICHAMY, OLD NO.2/65, NEW NO.268,
KALANGARAIPATTI, SIRUKOODALPATTI,
THIRUPPATHUR TALUK, SIVAGANGAI DISTRICT.

... PETITIONER in CRL OP(MD) No.11849 of 2017

PRABHU DHAMODHARAN,

S/O.MOORTHY PANDIAN, 36,
SHENKOTTAI MAIN ROAD, CUTTRALAM,
TIRUNELVELI DISTRICT.

... PETITIONER in CRL OP(MD) No.14462 of 2017



-VS-

1 THE COMMISISONER OF POLICE,
TIRUNELVELI CITY.

2 THE INSPECTOR OF POLICE.
PERUMALPURAM POLICE STATION,
TIRUNELVELI CITY, TIRUNELVELI.

... RESPONDENTS in CRL OP(MD) No.4496 of 2016

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE,
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

... RESPONDENT in CRL OP(MD) No.7467 of 2016

1 THE SUPERINTENDENT OF POLICE,
PUDUKKOTTAI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
KEERANUR, PUDUKKOTTAI DISTRICT.

3 THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.

... RESPONDENTS in CRL OP(MD) No.16468 of 2016

1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT.

2 THE INSPECTOR OF POLICE,
KEELASIVALPATTI POLICE STATION,
THIRUPPATHUR TALUK, SIVAGANGAI DISTRICT.

... RESPONDENT in CRL OP(MD) No.11849 of 2017

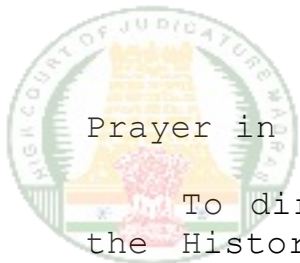
1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
CUTTRALAM POLICE STATION,
TIRUNELVELI DISTRICT.

... RESPONDENTS in CRL OP(MD) No.14462 of 2017

Prayer in CRL OP(MD) No.4496 of 2016:

To direct the respondents to remove the name of the petitioners from the array as history shetted rowdy vide H.S.No.137 of 2013 which is being maintained by the 2nd respondent as expeditiously as possible within the time stipulation as prescribed by this Honourable Court.



Prayer in CRL OP(MD) No.7467 of 2016:

To direct the respondents to remove the petitioner name from the History Sheet or pass any other order or direction to the circumstances of the case .

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Prayer in CRL OP(MD) No.16468 of 2016:

To give direction to the respondents to remove the name of the petitioner from the History Sheet in annavasal Police Station, Pudukkottai District.

Prayer in CRL OP(MD) No.11849 of 2017:

To direct the respondents to remove the petitioner name and photo affixed in the Notice Board of the 2nd respondent police station.

Prayer in CRL OP(MD) No.14462 of 2017:

To direct the respondents to remove the petitioners name from the History Sheet (HS No.208/2015) maintained in the Cuttralam Police Station, Tirunelveli District.

FOR PETITIONER

in WP(MD) No.19651 of 2017 : MR.M.SUBASH BABU

FOR PETITIONER

in WP(MD) No.14198 of 2018
14197 of 2018, 14203 of 2018, : MR. R.GANDHI
16180 of 2018

FOR PETITIONER

in WP(MD) No.16051 of 2018 : MR.K.P.NARAYANAKUMAR

FOR PETITIONER

in WP(MD) No.17352 of 2018 : P.SENTHUR PANDIAN

FOR PETITIONER

in WP(MD) No.17442 of 2018 : M/S.S.VIJAYASHANTHI

FOR PETITIONER

in WP(MD) No.18327 of 2018 : MR.S.M.A.JINNAH

FOR PETITIONER

in WP(MD) No.18373 of 2018

<https://hcjudges.ecm.gov.in/hc/judges/19639> of 2017 : MR. R.GANDHI



FOR PETITIONER

in WP(MD) No.19425 of 2018

: MR.P.M.VISHNUVARTHANAN

FOR RESPONDENT IN

ALL WRIT PETITIONS

: MR.K.CHELLAPANDIAN,
ADDITIONAL ADVOCATE GENERAL,
ASSISTED BY MR.S.ANGAPPAN
GOVERNMENT ADVOCATE.

FOR PETITIONER

in CRL OP(MD) No.4496 of 2016 : MR R.ANAND

FOR PETITIONER

in CRL OP(MD) No.7467 of 2016 : MR.M.KARUNANITHI

FOR PETITIONER

in CRL OP(MD) No.16468 of 2016: MR. P.GANAPATHI SUBRAMANIAN

FOR PETITIONER

in CRL OP(MD) No.11849 of 2017: MR.V.SANKARANARAYANAN

FOR PETITIONER

in CRL OP(MD) No.14462 of 2017: MR. S.SUNDARA PANDIAN

FOR RESPONDENTS IN ALL

CRL OPs.

:MR.K.CHELLAPANDIAN,
ADDITIONAL ADVOCATE GENERAL,
ASSISTED BY MR.SUYAMBULINGA BHARATHI

COMMON ORDER

The common issue that has arisen for consideration before this Court in all the above cases is as to whether the continuance of the petitioners to be categorized as "History Sheetters" is legal and is in consonance with the relevant Police Standing Orders.

2.The scope of the relevant Police Standing Orders namely PSO Nos.741 to 748, has been a subject matter of consideration in various judgments of this Court and the law is no longer *res integra*. There is nothing new that is to be said in this judgment except to reiterate the settled position and to see, if it has been properly followed in all the cases, wherein the continuance of the persons branded as history sheetters, is under challenge.

3.This Court in ***Ganesan Vs The District Superintendent of Police, Virudhunagar District, Virudhunagar*** reported in **2010(6) CTC 507** has considered the law in detail. The relevant portions of

<https://hcservices.ecourts.gov.in/hcservices/> the judgment are extracted hereunder :



"45. Reading of the Police Standing Orders dealing with opening and retention of history sheets for different kinds of persons, such as, convicts, rowdies, known depredators, suspects and others shows that the authorities who are empowered to open and retain such sheets, have to arrive at a subjective satisfaction, as to whether the abovesaid persons, either by habit or disposition commit, attempt to commit, aid or abet the commission of offences involving breach of peace. An isolated act or commission cannot be characterised as a habitual act or commission involving breach of peace or law and order. While forming an opinion that the person is believed to be addicted to or aid or abet, the commission of crime, whether convicted or not, the Sub-Inspector of Police and his men have to collect information and that the same has to be ascertained before making a recommendation to an officer of and above the rank of Deputy Superintendent of Police, in whose jurisdiction, such person is ordinarily resident either permanently or temporarily.

46. Opening of history sheet in the case of persons convicted for offences involving imprisonment for life under Chapter XII and XVII and conviction for offences under Section 395 to 402, I.P.C. in the case of professional prisoners, Sections 392 to 394, I.P.C. and under Sections 75 of the Indian Penal Code, house breaking theft Section 109 Cr.P.C., 110 Cr.P.C. depending upon the number of convictions stated in Police Standing Order 747, is automatic, at the time of conviction of such persons.

47. Whereas, in the case of opening of history sheets for rowdies as per Form 112, where, some persons are classified as rowdies, the orders of the Superintendent of Police or concerned Sub-divisional Officer have to be obtained, on the basis of the information and facts ascertained by the Station House Officer, and his men. Persons who habitually commit, attempt to commit, or abet, the commission of offences involving breach of peace or (b) Persons bound over under Sections 106 and 107, Criminal Procedure Code or (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, or (d) Persons either convicted under Section 49-A of the Madras City Police Act, 1888 (Madras Act III of 1888) or under Section 4 of the Madras Gaming Act, 1930 (Madras Act III of 1930), or reasonably suspected to be habitually committing or abetting the commission of the offences, are classified as rowdies. Clause 4 of Police



Standing Order 749, enjoins a duty on the police to enter the names of history-sheeted rowdies in the station register of a known depredator and that rowdies should be checked regularly by beat Police Constable Constables in rural Police Stations and by rowdy patrols in large towns, as also by the Sub-Inspectors (Law and Order). The checking, however should be discretely done by the method of enquiries and not in the manner of domiciliary checks.

48. Police Standing Order dealing with opening and retention of History Sheets in relation to the nature of offences stated in Police Standing Order 749(2)(a) to (d), makes it explicit that a duty is cast on the Sub-Inspector of Police, Station House Officer/ Inspector of Police and his men to collect, verify and ascertain as to whether a person is known or believed to be addicted to or aid and abet, the commission of crime and that there should be active criminality, affecting breach of peace or law and order. Criminality, as conceived in the police Standing Orders, is commission of offences by the individual or aiding commission of offences or, by inducing/instigating commission of offences by other some person.

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 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.

52. The Discretion conferred on the authorities is controlled by factors which are in built in PSO 746, which states that history sheets can be broadly opened in respect of persons who are "known or believed to be addicted to or aid and abet the commission of crime, whether convicted or not, or who are believed to be habitual receivers". History sheets can also be re-opened in respect of following persons:

"a) Persons once convicted under any section of the Indian Penal Code are considered to be likely to commit crime;

b) Persons, not convicted, but believed to be involved in crime".

<https://hcservices.eandhra Pradesh>

53. PSO 747 deals with automatic opening of history sheets at the time of conviction for persons convicted



and shall be retained for two years after release from jail. It also deals with opening of a history sheet of a known depredator against whom an order has been passed under Section 356 Cr.P.C., and it shall not be closed, until the period during which he is required to report changes of residence, has elapsed. History sheet can be opened for suspects, under the orders of the Superintendent or Divisional Officer, if so empowered by the Superintendent for the persons included in PSO 749.

54.As per PSO 749 (4), all registered rowdies should be kept under the same type of watch as envisaged for registered suspects. The names of History sheeted rowdies should be entered in the Station check register of KDs and the rowdies should be checked regularly by beat police constables in rural police stations and by rowdy patrols in large towns as also by the Sub Inspectors (Law and Order). The checking however should be discretely done by the method of enquiries and not in the manner of domiciliary checks. Inspectors and Divisional Officers when they visit the area should make their own independent enquiries and note their findings in the history sheets and in inspection reports, if any. All reports against notorious rowdies entered in the General diary of the Station or matters brought to light on enquiries in the petitions should be entered against them in the personal sheets and should be dated.

55.As per PSO 748, where retention of a 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 the extension in the first instance upto the end of the next December. The above order shall be applied to the rowdy sheets also.

60. Police Standing Orders makes it explicit that the Sub Inspector of Police has to make necessary enquiries and ascertain the same before making a request to the Sub Divisional Officer to open or retain a history sheet. The Sub Divisional Officer or the Superintendent of Police after consideration of the surveillance report should arrive at a reasonable conclusion, as to the existence of materials warranting retention of the rowdy list. The discretion conferred on the police authorities under the Police Standing Orders is to subserve the object, viz., to control the prevention of crime and protection to others from crime and the surveillance data has to be carefully examined by the Station House Officer or the Competent Person, who is to be in the service.

<https://hcservices.gov.in/hcservices>

61. Thus it could be seen, that an elaborate procedure and the manner in which the surveillance data



has to be collected and ascertained, are set out in the Police Standing Orders. Intimation of the movements of the persons closely watched under PSO 752 is also given to the nearest railway police stations. Needless to say that when movements of the persons are watched, there is an invasion of right of privacy. This intrusion of privacy is authorised to control, prevention of crime and to protect others from crime and if the person against whom the history sheet is opened is free from any taint or suspicion for over a considerable period of time, the Sub Divisional Officers/Superintendent of Police has to exercise his discretion in favour of those branded as rowdy, so as to allow himself to be free in the best interest of the society. The Sub Divisional Officers should not be swayed away by any bald statement of his subordinates seeking opening or retention of history sheets, unless it is considered necessary or where an automatic opening of history sheet is necessary, as in the case of conviction for the offences stated in the police standing orders.

62. In a situation of this nature, keeping in mind the nature of the duties required to be performed by the law enforcing agencies, the discretion to be exercised by the second respondent should be on sound principles of fairness, reasonableness and it should be in accordance with the object sought to be achieved while opening or retaining a rowdy history sheet.

65. The criteria for opening a history sheet therefore, is the subjective satisfaction of the authority and it has to be arrived at, on the reasonable belief or knowledge that the person, for whom the history sheet is opened or retained, is habitually addicted or aid or abet, the Commission of Crime, whether convicted or not etc. While arriving at the subjective satisfaction, current doings in other words, the activities of such persons which are informative and useful, based on the facts ascertained both by the Sub-Inspector and his men from the date of last entry shall be made month-wise for close watch of characters and quarterly for non-close watch of characters.

66. When it is said that something has to be done within the discretion of the authorities, that something has to be done according to the rules of reason and justice, not according to private opinion; according to law and not humour. It is to be not arbitrary, vague, and fanciful, but legal and regular. And it must be within the limit, to which an honest man, competent to the discharge of his office ought to confine himself.



67. Branding a person as a history sheeted rowdy has a tainted image in the society as compared to others. Needless to say that his relationship with others and the prospects of personal development may not remain the same. Characterisation of a person is stigmatic, if any photographs is displayed in some conspicuous places in the area where he resides, or in public places, and it affects not only his personal rights, but there is every likelihood of damage being caused to the members of his family and it cannot be lost sight of. Innocent children of such persons could be even looked down, if the officer, mechanically under the guise of prevention of crime and to protect others, open or extend history sheets, which has an impact on the right of privacy of not only the individual against whom the order is passed, but also causes harm to other person's rights. Therefore, a fair and reasonable decision should be taken, taking into consideration the Constitutional rights under Article 21 of the Constitution of India and the interests of the State. It should be noted that at time of opening a history sheet, the individual is not informed of the decision taken by the authorities behind his back and that the information collected is discreet. Needless to say that every person wants to live with dignity and he cannot be condemned arbitrarily. It is also to be borne in mind that estrangement of the members of a history sheeted rowdy, in social gatherings, etc., is not uncommon in our society. Therefore, opening or retention of history sheets, which interferes with the right of privacy of a person, should be done strictly adhering to the parameters inbuilt in the Police Standing Orders, keeping in mind the object sought to be achieved.

4. This Court in judgment dated 22.03.2010 in WP No.5677 of 2007 has held as follows:

"12. Keeping the above in mind, while dealing with the provisions of PSO 748 and 749, a learned Judge of this Court in the judgment in K.M. Sheriff v. The Superintendent of Police, Pudukkottai District and another, 2006 (2) MWN (Cr1.) 421, had ultimately observed as follows:-

"12. A reading of the above said provisions, especially PSO 749, shows that a person shall be classed as suspects and History Sheets shall be opened for him under orders of the Superintendent or Divisional Officer, if so empowered by the Superintendent, if such person is believed to be addicted to crime. The averments in paragraph 6 of the counter affidavit shows respondents have proceeded against the petitioner believing him to be addicted to crime and History Sheet has been opened. If that is so, the



respondents should have followed PSO 748. As per PSO 748, the Superintendent of Police may order the closure of a History Sheet at any time but a Divisional Officer may only do so on the expiry of the period named above. As per 748(2), where retention of a History Sheet is considered necessary after two years of registration, orders of an officer of and above the rank of the 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 extensions from January to December. As per PSO 748(3), PSO 748(1) and 748(2) apply to rowdy sheets also. Therefore, it is crystal clear that whenever retention of History Sheet is considered necessary after two years of registration, orders of an officer of and above the rank of the Assistant Superintendent of Police/Deputy Superintendent of Police must be taken. In this case, it is not the case of the respondents that such orders of extension was obtained as per PSO 748(2). This is one grave illegality committed by the respondents in this case.

13. PSO 748 as contained in the recent publication is in pare materia with PSO 748 as found in 1999 publication. In the counter affidavit, though first part of PSO No.748 has been extracted in paragraph 7, the respondents have conveniently omitted to extract/refer to PSOs 748(2) and 748(3). When the above said Police Standing Order No.748(2) mandates the taking of specific orders from superior officers for the retention of a History Sheet beyond two years of registration, the respondents in this case have failed to do so. PSO 748 (2) further mandates that for further annual extensions from January to December, separate orders should be taken from the authorities mentioned therein every year.

5. This Court in **Manivanan Vs. State represented by The District Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501**, has held as follows:

8. In this regard we may have a glance through PSO 746 (1) which reads as follows:-

... .. According to the above provision, if only an individual is either known or believed to be addicted to or to aid and abet the commission of the crime or if he is believed to be habitual receiver, after recording such a finding, history sheet can be either opened or extended beyond the period of two years. This court has noticed that in most of the orders passed under PSO 746 or under PSO 749, there is no such reason found recorded by the police officers as



required under the said provisions. This, in my considered opinion, may be, because of lack of understanding of these police standing orders by the officers in the level of the Deputy Superintendent of Police or Assistant Superintendent of Police. Therefore, it is high time for the Director General of Police to issue instructions to all the Divisional Police Officers by means of a circular impressing upon them to pass detailed orders reflecting application of mind as required under PSO 746 or 749, as the case may be, as and when either a history sheet or a rowdy sheet is opened or the period is extended. In view of the foregoing discussion, I am not inclined to impose any compensation to be paid by the State to the petitioner.

9. In the result, this writ petition is partly allowed and the history sheet opened against the petitioner is hereby quashed. Further, the Director General of Police, Government of Tamil Nadu, is hereby directed to issue necessary instructions by way of circular to all the Divisional Police Officers as indicated above. No costs.

6. This Court in **K.M. Sheriff Vs. The Superintendent of Police, Pudukottai District and another**, reported in **2006 (2) 7 MWN (Cr) 421**, has held as follows:

12. A reading of the above said provisions, especially PSO 749, shows that a person shall be classed as suspects and History Sheets shall be opened for him under orders of the Superintendent or Divisional Officer, if so empowered by the Superintendent, if such person is believed to be addicted to crime. The averments in paragraph 6 of the counter affidavit shows that the respondents have proceeded against the petitioner believing him to be addicted to crime and History Sheet has been opened, if that is so, the respondents should have followed PSO 748. As per PSO 748, the Superintendent of Police may order the closure of a History Sheet at any time but a Divisional Officer may only do so on the expiry of the period named above. As per 748 (2), where retention of a History Sheet is considered necessary after two years of registration, orders of an officer of and above the rank of the 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 extensions from January to December. As per PSO 748(3), PSO 748(1) and 748(2) apply to rowdy sheets also. Therefore, it is crystal clear that whenever retention of History Sheet is considered necessary after two years of registration, orders of an



officer of and above the rank of the Assistant Superintendent of Police / Deputy Superintendent of Police must be taken. In this case, it is not the case of the respondents that such orders of extension was obtained as per PSO 748(2). This is one grave illegality committed by the respondents in this case.

13. PSO 748 as contained in the recent publication is in paremateria with PSO 748 as found in 1999 publication. In the counter affidavit, though first part of PSO No.748 has been extracted in paragraph 7, the respondents have conveniently omitted to extract/refer to PSO 748(2) and 748(3). When the above said Police Standing Order, No.748 (2) mandates the taking of specific orders from superior officers for the retention of a History Sheet beyond two years of registration, the respondents in this case have failed to do so. PSO 748(2) further mandates that for further annual extensions from January to December, separate orders should be taken from the authorities mentioned therein every year. This vital provision which safeguards the rights of a citizen has also not been followed by the respondents as there is no averment to that effect in the counter affidavit. When so many safeguards have been provided for in the PSO, before and after opening of History Sheets / Rowdy Sheets, none of them seem to have been observed by the respondents herein.

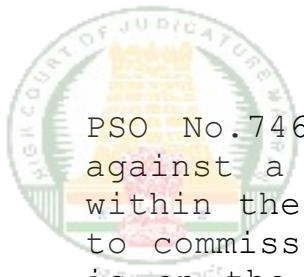
7. From the above judgments the following principles emerge insofar as history sheeters are concerned:

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.

<https://hcservices.ecourts.gov.in/hcservices/>

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.

<https://hcservices.courts.gov.in/hcservices/> 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 sheeter 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.

8. The above principles that has been culled out of various decisions of this Court will now be applied to each case in order to see if the Police officials have scrupulously followed all the Police Standing Orders and the judgments of this Court, while retaining the name of a person as a history sheeter, beyond the stipulated period.

9. WP(MD)No.19651 of 2017 :

In this case the name of the petitioner was added in the history sheet in the year 2011 in HS No.7 of 2011. The petitioner claims himself to be a Coolie worker, who is struggling to maintain his family. The petitioner has further contended that the respondent Police registered a case against him in Crime No.384 for the alleged offence under Sections 148 and 302 r/w 149 of IPC and at that point of time, history sheet was opened for the petitioner by the second respondent. The petitioner was arrayed as A-6 in the said case. Subsequently, the case ended in an acquittal by judgment dated 18.06.2014, passed by the IV Additional District and Sessions Judge, Madurai on the ground that the prosecution has miserably failed to prove the case.

9.2. It is the further case of the petitioner that the respondent Police registered another FIR against the petitioner and another person in crime No.26 of 2012 for the alleged offence under Sections 294(b), 323 and 506(i) of IPC and final report was



also filed. This case also ended in an acquittal by judgment dated 29.01.2013 in STC No.14 of 2013. According to the petitioner apart from these two cases there are no other cases registered by the respondent Police against the petitioner after the acquittal in both the above said cases. However, the respondent has filed a Counter affidavit and has mentioned three more cases registered against the petitioner in Crime No.340 of 2012 for the offence under Sections 41(b)(ii) and 110 of CrPC, in Crime No.849 of 2014 under Section 109 of CrPC and Crime No.88 of 2016 under Section 151 of CrPC.

9.3. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted either under Section 109 of CrPC or under Section 110 of CrPC. Therefore, this case will fall under PSO No.746. It is clear that after the year 2012, admittedly, the petitioner has not involved in any offence. The two offences for which the petitioner faced trial, ended in acquittal in the year 2013 and 2014 respectively. The subsequent three cases that were registered in the year 2012, 2014 and 2016 under CrPC is clearly a ruse to continue to retain the name of the petitioner as a history sheeter.

9.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO No.748 (2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No.746(3) and 746(4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheeter and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

9.5. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

<https://hcservices.courts.gov.in/hcservices/> of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeter in HS No.7 of 2011 is hereby



quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

10.WP(MD)No.14198 of 2018:

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In this case the petitioner was added in the history sheet in the year 2017 in HS No.650 of 2017. The petitioner claims to be working in a private company and married and having a daughter studying in UKG. It is the further case of the petitioner that in year 2011, there was a group clash between two communities in the village and a case was filed against nearly 43 persons in which the petitioner was also added as an accused in Crime No.100 of 2011, for the offence under Sections 147, 148, 341, 302 and 120(b) r/w Section 149 of IPC. Final report has been filed in this case and it is pending committal in PRC No.27 of 2012 before the Judicial Magistrate Court, Manamadurai.

10.2. There is yet another case that was registered against the petitioner under Section 110 of CrPC in the year 2017, wherein the petitioner was forced to execute a bond for good behaviour, as if he is a habitual offender. Apart from this, there is no other case registered against the petitioner. However, for the incident that took place in the year 2011 and which is pending, the fourth respondent has opened a history sheet for the petitioner in the year 2017 without any basis. This has been challenged in the present writ petition.

10.3. The fourth respondent has filed a counter affidavit, wherein he has stated that the case is pending against the petitioner in PRC No.27 of 2012 and whether convicted or not, the Police is entitled to open a history sheet under PSO No.746 and a subsequent case was also registered under Section 110 of CrPC in the year 2017. On these grounds the fourth respondent justifies retaining the name of the petitioner as a history sheeteer.

10.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted either in the pending PRC No.27 of 2012 or under Section 110 of CrPC. Therefore, this case will fall under PSO No.746. It is clear that after the year 2011, admittedly, the petitioner has not involved in any offence.

10.5. In this case it not known as to why the respondent Police did not choose to open a history sheet against the petitioner in the year 2011, when the alleged offence is said to have taken place. The respondent waited for nearly six years and chose to register a case under Section 110 of CrPC and thereafter opened a history sheet against the petitioner in HS No.650 of 2017. There are absolutely no materials to show that during the interregnum period the petitioner was involved in any offence or



the petitioner came to the adverse notice of the Police due to his bad character.

10.6. In the considered view of this Court, Section 110 CrPC has been misused in this case in order to justify the inclusion of the name of the petitioner in the history sheet. Even to do it, PSO No.747 requires a conviction under Section 110 of CrPC, which is not the case here.

10.7. This Court is convinced that the fourth respondent has opened a history sheet against the petitioner without any materials or basis and according to his own whims and fancies. This is a clear case of misuse of power by the Police to open a history sheet against a person for no compelling reasons.

10.8. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

10.9. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.650 of 2017 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

11. WP(MD) No.14197 of 2018:

In this case the petitioner was added in the history sheet in the year 2017 in HS No.649 of 2017. The petitioner claims to be working in a private company and married and having a daughter studying in UKG. It is the further case of the petitioner that in year 2011, there was a group clash between two communities in the village and a case was filed against nearly 43 persons in which the petitioner was also added as an accused in Crime No.100 of 2011, for the offence under Sections 147, 148, 341 302 and 120(b) r/w Section 149 of IPC. Final report has been filed in this case and it is pending committal in PRC No.27 of 2012 before the Judicial Magistrate Court, Manamadurai.

11.2. There is yet another case that was registered against the petitioner under Section 110 of CrPC in the year 2017, wherein the petitioner was forced to execute a bond for good behaviour, as if he is a habitual offender. Apart from this, there is no other case registered against the petitioner. However, for the incident that took place in the year 2011 and which is pending, the fourth respondent has opened a history sheet for the petitioner in the year 2017 without any basis. This has been challenged in the



11.3. The fourth respondent has filed a counter affidavit, wherein he has stated that the case is pending against the petitioner in PRC No.27 of 2012 and whether convicted or not, the Police is entitled to open a history sheet under PSO No.746 and a subsequent case was also registered under Section 110 of CrPC in the year 2017. On these grounds the fourth respondent justifies retaining the name of the petitioner as a history sheeteer.

11.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted either in the pending PRC No.27 of 2012 or under Section 110 of CrPC. Therefore, this case will fall under PSO No.746. It is clear that after the year 2011, admittedly, the petitioner has not involved in any offence.

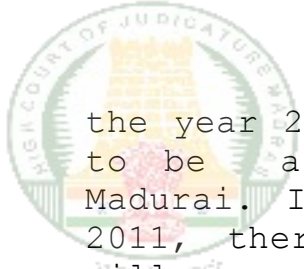
11.5. In this case it not known as to why the respondent Police did not choose to open a history sheet against the petitioner in the year 2011, when the alleged offence is said to have taken place. The respondent waited for nearly six years and chose to register a case under Section 110 of CrPC and thereafter opened a history sheet against the petitioner in HS No.649 of 2017. There are absolutely no materials to show that during the interregnum period the petitioner was involved in any offence or the petitioner came to the adverse notice of the Police due to his bad character.

11.6. In the considered view of this Court, Section 110 CrPC has been misused in this case in order to justify the inclusion of the name of the petitioner in the history sheet. Even to do it, PSO No.747 requires a conviction under Section 110 of CrPC, which is not the case here.

11.7. This Court is convinced that the fourth respondent has opened a history sheet against the petitioner without any materials or basis and according to his own whims and fancies. This is a clear case of misuse of power by the Police to open a history sheet against a person for no compelling reasons.

11.8. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

11.9. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeteer in HS No.649 of 2017 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.



the year 2017 in HS No.647 of 2017. The petitioner claims himself to be a Post graduate and working in a private company at Madurai. It is the further case of the petitioner that in year 2011, there was a group clash between two communities in the village and a case was filed against nearly 43 persons in which the petitioner was also added as an accused in Crime No.100 of 2011, for the offence under Sections 147, 148, 341 302 and 120(b) r/w Section 149 of IPC. Final report has been filed in this case and it is pending committal in PRC No.27 of 2012 before the Judicial Magistrate Court, Manamadurai.

12.2. There is yet another case that was registered against the petitioner under Section 110 of CrPC in the year 2017, wherein the petitioner was forced to execute a bond for good behaviour as if he is a habitual offender. Apart from this, there is no other case registered against the petitioner. However, for the incident that took place in the year 2011 and which is pending, the respondent has opened a history sheet for the petitioner in the year 2017 without any basis. This has been challenged in the present writ petition.

12.3. The fourth respondent has filed a counter affidavit, wherein he has stated that the case is pending against the petitioner in PRC No.27 of 2012 and whether convicted or not, the Police is entitled to open a history sheet under PSO No.746 and a subsequent case was also registered under Section 110 of CrPC in the year 2017. On these grounds the fourth respondent justifies retaining the name of the petitioner as a history sheeteer.

12.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted either in the pending PRC No.27 of 2012 or under Section 110 of CrPC. Therefore, this case will fall under PSO No.746. It is clear that after the year 2011, admittedly, the petitioner has not involved in any offence.

12.5. In this case it not known as to why the respondent Police did not choose to open a history sheet against the petitioner in the year 2011, when the alleged offence is said to have taken place. The respondent waited for nearly six years and chose to register a case under Section 110 of CrPC and thereafter opened a history sheet against the petitioner in HS No.647 of 2017. There are absolutely no materials to show that during the interregnum period the petitioner was involved in any offence or the petitioner came to the adverse notice of the Police due to his bad character.

12.6. In the considered view of this Court, Section 110 CrPC has been misused in this case in order to justify the inclusion of the name of the petitioner in the history sheet. Even to do it, PSO No.747 requires a conviction under Section 110 of CrPC, which is not the case here.



12.7.This Court is convinced that the fourth respondent has opened a history sheet against the petitioner without any materials or basis and according to his own whims and facies. This is a clear case of misuse of power by the Police to open a history sheet against a person for no compelling reasons.

12.8.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

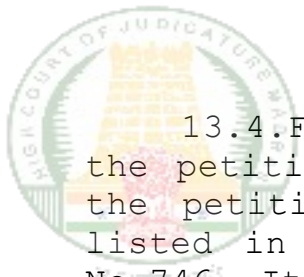
12.9.In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.647 of 2017 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

13.WP(MD)No.16051 of 2018:

In this case the name of the petitioner was added in the history sheet in the year 2017 in HS No.8 of 2017. The petitioner claims to be a member of a political party and also an Advocate by profession at Kuzhithurai at Kanyakumari District. It is the case of the petitioner that he used to question the illegal activities of the Police Officers in public meetings and therefore, the Police developed hostile attitude against the petitioner. The petitioner gave a written complaint against three Police officials to the Superintendent of Police, Kanyakumari District, on 27.05.2017 for taking action against them. It was only thereafter, history sheet was opened against the petitioner by the second respondent on 24.06.2017. According to the petitioner the entire exercise is *mala fide* and purposely done to stop the petitioner from questioning the Police.

13.2.The third respondent has filed a Counter affidavit. In the said counter affidavit, the respondent Police has shown three cases registered against the petitioner. The first case was registered in Crime No.213 of 2012 for the offence under Sections 447 and 506(ii) of IPC r/w Section 3 (1) of TNPPDL Act and this case is pending trial in PRC No.16 of 2012 before the Judicial Magistrate -I, Kuzhithurai. The second case was registered in Crime No.490 of 2014, for the offence under Sections 147, 148, 447, 341, 294(b), 323, 427, 379 and 506(i) of IPC. This case has been closed as mistake of fact. The third case was registered in Crime No.91 of 2017 for the offence under Sections 447, 427, 294(b) and 506(ii) of IPC and charge sheet has been laid and the case is now pending before the Judicial Magistrate-I, Kuzhithurai in CC No.170 of 2017.

<https://hcservices.courts.gov.in/hcservices/> on the above, the third respondent is justifying the opening of history sheet against the petitioner in the year 2017.



13.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that there are two cases pending against the petitioner. One was registered in the year 2012 and the other was registered in the year 2017. No materials have been placed before this Court as to why the petitioner has been branded as a rowdy and history sheet was opened in the year 2017. The respondent Police have not brought to the notice this Court any crime committed by the petitioner during the period from the year 2012 to 2017. The latest case that has been shown in Crime No.91 of 2017, to be the trigger for opening the history sheet against the petitioner pertains to a land dispute between the petitioner and one Sasindran and on the date of occurrence, the petitioner and others are said to have entered into the property and taken away jack fruits and caused damages to the tree and when questioned, abused the complainant. This case is admittedly pending trial. By no stretch, this case can be a ground to open a history sheet against the petitioner.

13.5. A stray incident of this nature, if is made a ground to open a history sheet against the person, in almost every case, the Police can open a history sheet against every person. This will go against the very purpose of maintaining the history sheet. The purpose behind the opening of the history sheet is to keep in check the habitual offenders, who are a threat to the society. The so called offences that has been portrayed in this case merely arose out of a private dispute between the parties. It makes this Court to think that the Police wanted to keep the petitioner in control and not allow him to question them by using his status as an Advocate and as a person belonging to a political party. This in the considered view of this Court, is colourable exercise of power and there is absolutely no justification to open a history sheet against the petitioner.

13.6. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

13.7. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.8 of 2017 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

14. WP(MD) No.16180 of 2018:

In this case the petitioner was added in the history sheet in HS No.646 of 2017. The petitioner claims to be an Agriculturist and married and having two daughters, who are studying in SSLC and 9th standard. It is the further case of the



petitioner that in year 2011, there was a group clash between two communities in the village and a case was filed against nearly 43 persons in which the petitioner was also added as an accused in Crime No.100 of 2011, for the offence under Sections 147, 148, 341, 302 and 120(b) r/w Section 149 of IPC. Final report has been filed in this case and it is pending committal in PRC No.27 of 2012 before the Judicial Magistrate Court, Manamadurai.

14.2. There is yet another case that was registered against the petitioner under Section 110 of CrPC in the year 2017, wherein the petitioner was forced to execute a bond for good behaviour as if he is a habitual offender. Apart from this, there is no other case registered against the petitioner. However, for the incident that took place in the year 2011 and which is pending, the respondent has opened a history sheet for the petitioner in the year 2017 without any basis. This has been challenged in the present writ petition.

14.3. The fourth respondent has filed a counter affidavit, wherein he has stated that the case is pending against the petitioner in PRC No.27 of 2012 and whether convicted or not, the Police is entitled to open a history sheet in PSO No.746 and the subsequent case was also registered under Section 110 of CrPC in the year 2017. On these grounds the fourth respondent justifies retaining the name of the petitioner as a history sheeteer.

14.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted either in the pending PRC No.27 of 2012 or under Section 110 of CrPC. Therefore, this case will fall under PSO No.746. It is clear that after the year 2011, admittedly, the petitioner has not involved in any offence.

14.5. In this case it not known as to why the respondent Police did not choose to open a history sheet against the petitioner in the year 2011, when the alleged offence is said to have taken place. The respondent waited for nearly six years and chose to register a case under Section 110 of CrPC and thereafter opened a history sheet against the petitioner in HS No.646 of 2017. There are absolutely no materials to show that during the interregnum period the petitioner was involved in any offence or the petitioner came to the adverse notice of the Police due to his bad character.

14.6. In the considered view of this Court, Section 110 CrPC has been misused in this case in order to justify the inclusion of the name of the petitioner in the history sheet. Even to do it, PSO No.747 requires a conviction under Section 110 of CrPC, which is not the case here.

14.7. This Court is convinced that the fourth respondent has opened a history sheet against the petitioner without any



materials or basis and according to his own whims and facies. This is a clear case of misuse of power by the Police to open a history sheet against a person for no compelling reasons.

14.8. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

14.9. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.646 of 2017 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

15.WP(MD)No.17352 of 2018:

In this case the name of the petitioner was added in the history sheet in the year 2008 in HS No.413 of 2008. The petitioner claims himself to be working as a Mason. The petitioner has further contended that all the member of his family belong to Kamaraj Nadar Community Sangam at Perungudi. This Sangam regularly helps people belonging to the Community from oppression and high handedness of the Police. Whenever any corrupt activities are brought to the notice of this Sangam, complaints used to be given to the higher officials. Therefore, the Police always had an antagonistic attitude against the petitioner and his family members. As a result of the same all the members of his family were branded as rowdies and history sheet was opened against the petitioner's father in the year 2006 and against the petitioner and his brother in the year 2008.

15.2. The petitioner has further alleged that the respondent Police registered 13 cases against the petitioner and his family members from the year 2001 upto 2018. Out of 12 cases, 7 cases ended in acquittal and in 5 cases action was dropped. There is only one case which is pending in SC No.27 of 2016 before the Mahila Court, for the offence under Section 294(b), 307, 323 and 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Woman Harassment Act. The petitioner therefore submitted that retaining the name of the petitioner for the last 10 years in the history sheet is totally illegal and opposed to the Police Standing Orders.

15.3. The respondent Police has filed a counter affidavit and taken a stand that various cases were registered against the petitioner and his family and justifies the opening of the history sheet against the petitioner. The respondent has further submitted that one case is still pending against the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

15.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly,



the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2014, admittedly, the petitioner has not involved in any offence.

15.5. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO No.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheeter and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

15.6.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

15.7.In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeter in HS No.413 of 2008 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

16.WP(MD)No.17442 of 2018:

In this case the name of the petitioner was added in the history sheet in the year 2015 in HS No.322 of 2015. The petitioner claims himself to be working as a Driver. He is originally a Diploma Holder in Electrical and Electronics Engineering. A false case has been foisted against the petitioner by the respondent Police and after his name was included in the history sheet, he did not get any job. Therefore, he started working as a Driver.

<https://hcservices.courts.gov.in/services>
16. The learned Counsel for the petitioner would submit that the third respondent registered an FIR in Crime No.114 of 2013 for the offence under Sections 147, 148, 427, and 506(ii) of IPC and



certain provisions of SC/ST Act and in that case the petitioner was arrayed as A-8. During the pendency of the case, the third respondent opened a history sheet against the petitioner in the year 2015. The criminal case ultimately ended in an acquittal by judgment dated 22.08.2017.

After being acquitted from the case, the petitioner made a representation on 30.08.2017, to the respondent Police to remove the name of the petitioner from the history sheet. However, no action was taken on the side of the respondent. Therefore, this writ petition has been filed challenging the continuance of the name of the petitioner as a history sheeter.

16.3. The third respondent in the counter affidavit has taken a stand that there was a criminal case against the petitioner in the year 2013, which ended in acquittal in the year 2017. However, the stand taken by the respondent is that the petitioner and others were involved in a crime which was a communal clash in the locality and therefore, the name of the petitioner is continued in the history sheet in order to have a close watch on his activities. The respondent has also taken a stand that another case was registered in Crime No.117 of 2013 under Section 107 of CrPC and the same was also closed. The only justification given by the respondent to continue to show the name of the petitioner in the history sheet is to watch the activities of the petitioner.

16.4. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2013, admittedly, the petitioner has not involved in any offence.

16.5. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO NO.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheeter and passed a separate order in that regard. This Court finds that this mandatory requirements were not fulfilled in this case. There is not even a mentioned in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was entered in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.



16.6.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

16.7.In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.322 of 2015 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

17.WP(MD)No.18327 of 2018:

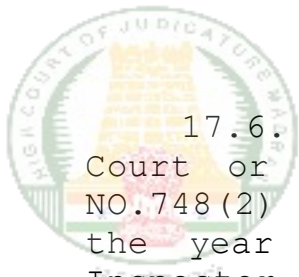
In this case the name of the petitioner was added in the history sheet in the year 2000 in HS No.16 of 2000. The petitioner claims himself to be working as a Manager in Sri Vatsa International Private Limited Company and the petitioner has also completed ITI.

17.2.It is the case of the petitioner that his father was working in the Police Department and he gave a complaint against the higher official regarding the illegal occupation of Police quarters. This created animosity between the higher official and the petitioner's father and therefore, the Police started foisting several cases against the petitioner and his father. The first case was registered in Crime No.90 of 1998 for various offences under IPC and Section 3(1) of TNPPDL Act and the same was closed as mistake of fact. Thereafter another case was registered in Crime No.313 of 1998, for the offence under Sections 447 and 427 of IPC and 3(1) of TNPPDL Act and this case also ended in an acquittal. Thereafter another case was registered in Crime No.119 of 199 for the offence under Sections 353, 224, 225, 294(b) and 506(i) of IPC and the said case also ended in an acquittal. Thereafter another case was registered in Crime No.334 and 506(ii) of IPC and in that case the petitioner was discharged on the ground that there are no grounds to frame charge against the petitioner.

17.3.During the pendency of this case, a history sheet was opened against the petitioner in the year 2000. There is no case that is pending as against the petitioner for more than 15 years.

17.4.The third respondent has filed a counter affidavit wherein, it has been categorically stated in para 6 that for the past several years, the petitioner has not involved in any crime and already a report has been sent to the superior officer for closing the history sheet against the petitioner.

<https://hcservices.courts.gov.in/hcservices/> made clear from the counter affidavit itself that there is no justification to continue to retain the name of the petitioner as a history sheet.



17.6. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO NO.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheet and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

17.7.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

17.8.In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.16 of 2000 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

18.WP(MD)No.18373 of 2018:

In this case the name of the petitioner was added in the history sheet in the year 2006 in HS No.187 of 2006. The petitioner claims himself to be an Agriculturalist and also is running a micro finance in the name and style of Shri Santhana Karuppu Finance at Trichy. A case came to be registered in the year 1999 for the offence under Sections 147, 347, 365 and 341 of IPC. This case ended in an acquittal. Thereafter another case was registered against the petitioner in the year 2006 for the offence under Sections 147, 148, 324 and 506 (ii) of IPC, this case also ended in acquittal. Thereafter, another case came to be registered against the petitioner in Crime No.86 of 2006 for the offence under Section 147, 148, 341 and 302 of IPC, this case also ended in an acquittal. It was only during the pendency of this case, a history sheet was opened against the petitioner in the year 2006. Subsequent to the acquittal, there is no case pending against the petitioner. However, in order to justify the extension, an FIR came to be registered in

18.2.

18.3. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2006, admittedly, the petitioner has not involved in any offence.

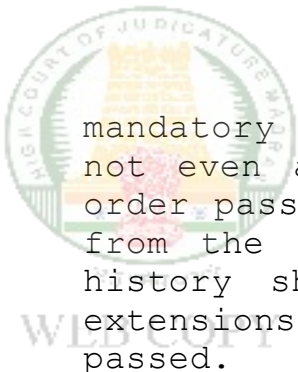
18.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO NO.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheet and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

18.5. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

18.6. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeteer in HS No.187 of 2006 is hereby quashed and hence there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

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19.5. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO No.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police/ Deputy Superintendent of Police objectively considered those materials placed by the petitioner and gave reasons as to why the name of the petitioner should be continued as a history sheeter and passed a separate order in that regard. This Court finds that these



mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

19.6.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

19.7.In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeteer in HS No.387 of 2006 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

20.WP(MD)No.19425 of 2018:

In this case the name of the petitioner was added in the history sheet in the year 2015 in HS No.325 of 2015. The petitioner claims himself to be a resident of Tirunelveli District. The petitioner further contended that in the year 2014, he was implicated in Crime No.731 of 2014, registered by the fourth respondent in respect of a murder of the petitioner's brother. This case ended in an acquittal in SC No.361 of 2015, by judgment dated 24.11.2015. The history sheet was opened in the year 2015 only based on this case and continued to be maintained by the fourth respondent till date. The petitioner has made a representation to remove his name from the history sheet, but however, till date it has not been removed. Therefore, the present writ petition has been filed before this Court.

20.2.The fourth respondent has filed a counter affidavit, wherein it is admitted that the case registered against the petitioner in Crime No.731 of 2014, ended in acquittal. However, the fourth respondent has mentioned two more cases in Crime Nos.117 and 163 of 2015, which have been filed against the petitioner. However, the respondent himself admitted that those two cases also ended in acquittal. The fourth respondent has taken a stand that the petitioner is under close surveillance and a bond for good behaviour was also received from the petitioner in the year 2015. Therefore, the fourth respondent has chosen to continue the name of the petitioner in the history sheet.

<https://hcservices.courts.gov.in/hcservices> 20.3.In view of the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences



listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2015, admittedly, the petitioner has not involved in any offence.

20.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO No.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No.746 (3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheet and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

20.5. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

20.6. In view of the above, the writ petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.325 of 2015 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

21. CrIOP(MD) No.4496 of 2016:

In this case the name of the petitioner was added in the history sheet in the year 2013 in HS No.137 of 2013. The petitioner claims to be an elected District Councilor of Tirunelveli District and he is involved in public life. Therefore, he had developed many political enemies, which resulted in registration of Criminal Case against him. Three cases were registered against the petitioner and others in the year 2007, 2011 and 2013 and all the three cases ended in acquittal in the year 2014 and 2015 respectively. Subsequently, one more case was registered against the petitioner in Crime No.316 of 2014 for the offences under Sections 279 and 337 of IPC r/w Section 185 of Motor Vehicles Act and under SC/ST Act and the same is pending. The learned Counsel for the petitioner submitted that the petitioner



is under continuance surveillance for no reasons and he is shown as a history sheet rowdy for the last 5 years for no justifiable reasons. Therefore, the petitioner made a representation on 12.01.2016, to remove his name from history sheet, however, till date the name of the petitioner was not removed. Hence, this present criminal original petition has been filed.

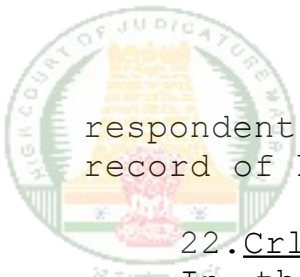
21.2.The second respondent has filed a counter affidavit, in which the factual aspects raised by the petitioner has been admitted. The respondent Police has taken a stand that the activities of the petitioner was detrimental to maintain law and order and he is causing disturbance to public peace and tranquility and therefore, he is under surveillance from the year 2013.

21.3.From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2014, admittedly, the petitioner has not involved in any offence.

21.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO NO.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheet and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

21.5.This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

21.6.In view of the above, the criminal original petition is hereby quashed and there shall be a direction to the
<https://hcservices.mca.gov.in/hcservices/> proceedings of the respondent Police in retaining the name of the petitioner as a history sheet in HS No.137 of 2013 is hereby quashed and there shall be a direction to the



respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

22.CrIOP(MD)No.7467 of 2016.

In this case the name of the petitioner was added in the history sheet in the year 2008 in HS No.488 of 2008. The petitioner claims to be a resident of a Thiruthangal Village, Virudhunagar District. The petitioner further contends that he was repeatedly booked under several theft cases and he has been acquitted in almost all the cases. After the year 2014, no case has been registered against the petitioner. Therefore, the present petition has been filed to remove the name of the petitioner from the history sheet.

22.2.The second respondent has filed a counter affidavit. The second respondent has referred to 11 cases registered against the petitioner from the year 2007 to 2016. Out of which, the petitioner has been acquitted in two cases and there are certain cases, which are pending against the petitioner .

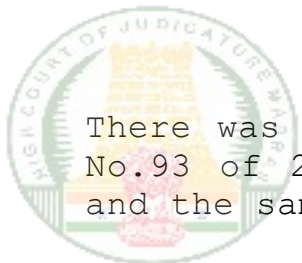
22.3.The petitioner has given a representation to the respondents on 04.03.2016, to remove his name from the history sheet. It is also seen that the petitioner has not involved himself in any offence after the year 2016.

22.4.In the facts and circumstances of the case there shall be direction to the first respondent to consider the representation made by the petitioner dated 04.03.2016 and pass appropriate orders strictly in consonance with PSO Nos.746 and 748. If the respondent Police finds that petitioner is not involved in any offence after 2016, taking into consideration the present status, appropriate orders may be passed within a period of four weeks from the date of receipt of a copy of this order. The respondent while passing orders shall also take into account the principles that have been enlisted in this batch of cases and accordingly take a decision.

22.5.This criminal original petition is disposed of with the above direction.

23.CrIOP(MD)No.16468 of 2016:

In this case the name of the petitioner was added in the history sheet in the year 2012 in HS No.383 of 2012. The petitioner claims to be a resident of Annavasal, Pudukottai District. A case was registered against the petitioner for the offence under Sections 457 and 380 of IPC in Crime No.158 of 2012. This case ended in an acquittal by judgment dated 15.06.2015. Another case was registered against the petitioner in Crime No.222 of 2017 for the offence under Sections 457 and 511 of IPC and the petitioner was convicted by judgment dated 22.11.2017.



There was another case registered against the petitioner in Crime No.93 of 2018 for the offence under Sections 453 and 380 of IPC and the same is pending.

23.2.The third respondent has filed a counter affidavit and has stated that the activities of the petitioner needs to be continuously monitored, since he is repeatedly involved in committing offence. Therefore, the name of the petitioner was retained as a history sheeter.

23.3.The petitioner has given a representation dated 02.08.2016 to the respondents, to remove the name of the petitioner from the history sheet.

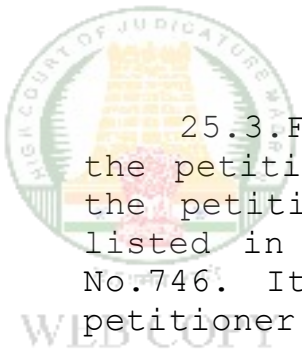
23.4.In the facts and circumstances of the case there shall be direction to the first respondent to consider the representation made by the petitioner dated 02.08.2016 and pass appropriate orders strictly in consonance with PSO Nos.746 and 748. If the respondent Police finds that petitioner has not involved in any offence after 2017, taking into consideration the present status, appropriate orders may be passed within a period of four weeks from the date of receipt of a copy of this order. The respondent while passing orders shall also take into account the principles that have been enlisted in this batch of cases and accordingly take a decision.

24.5.The criminal original petition is disposed of with the above direction.

25.CrIOP(MD)No.11849 of 2017.

In this case the name of the petitioner was added in the history sheet in the year 2005 in HS No.226 of 2005. The petitioner claims to be an Agricultural worker. Three cases were registered against the petitioner in the year 2004 in Crime Nos.66, 67 and 68 of 2004 for the offences under Sections 457 and 380 of IPC. All these cases ended in acquittal in the year 2007. Even thereafter the name of the petitioner is retained in the history sheet. Therefore, the petitioner made a representation dated 13.06.2017, to the respondents to remove the name of the petitioner from the history sheet. However, the name of the petitioner was not removed from the history sheet. Therefore, the present criminal original petition has been filed.

25.2.The second respondent has filed a counter affidavit accepting the factual stand taken by the petitioner. The second respondent has justified the continuance the name of the petitioner in the history sheet, on the ground that even after the
<https://hcservices.judges.gov.in/hcservices/> criminal cases, the name of a person can be retained in the history sheet in order to ensure that he does not involve in any other offences.



25.3. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2004, admittedly, the petitioner has not involved in any offence.

25.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO NO.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police /Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheeteer and passed a separate order in that regard. This Court finds that this mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

25.5. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

25.6. In view of the above, the criminal original petition is allowed and the proceedings of the respondent Police in retaining the name of the petitioner as a history sheeteer in HS No.226 of 2005 is hereby quashed and there shall be a direction to the respondent Police to remove the name of the petitioner from the record of history sheet rowdies.

26. CrIOP (MD) NO.14462 of 2017:

In this case the name of the petitioner was added in the history sheet in the year 2015 in HS No.208 of 2015. The petitioner claims to be a resident of Cuttralam and also is working in Cuttralam Thiruvilancore Aranmanai as a Superintendent. It is the case of the petitioner that three criminal cases were registered against the petitioner in Crime Nos.266 and 267 of 2014 and 381 of 2015. In the first case, the name of the petitioner was removed from the history sheet at the time of filing of the final report. In the second case, the petitioner was acquitted by judgment dated 15.12.2016 and in the third case, the same was closed by the

subjected

26.2. The second respondent has filed a counter affidavit, in which the factual details raised by the petitioner has been admitted. However, the only ground taken by the second respondent to continue to retain the name of the petitioner in the history sheet is that the activities of the petitioner has to be watched.

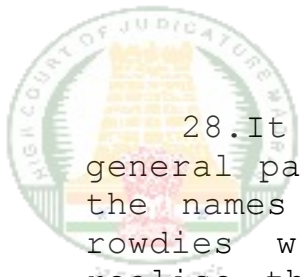
26.3. From the facts stated above, it is seen that the case of the petitioner does not fall under PSO No.747, since admittedly, the petitioner has not been convicted for any of the offences listed in PSO No.747. Therefore, this case will fall under PSO No.746. It is clear that after the year 2015, admittedly, the petitioner has not involved in any offence.

26.4. There are absolutely no materials produced before this Court or mentioned in the Counter affidavit to show that PSO No.748(2) was followed to retain the name of the petitioner till the year 2018. There is nothing to show that the concerned Inspector of Police maintained the record and continuously entered the various instances of bad character exhibited by the petitioner as contemplated under PSO No. 746(3) and 746 (4). Apart from that there are absolutely no materials to show that an officer in the rank of Assistant Superintendent of Police / Deputy Superintendent of Police objectively considered those materials placed by the Inspector of Police and gave reasons as to why the name of the petitioner should be continued as a history sheet and passed a separate order in that regard. This Court finds that these mandatory requirements were not fulfilled in this case. There is not even a mention in the Counter affidavit with regard to the order passed to retain the name of the petitioner after two years from the date on which the petitioner's name was added in the history sheet and there is also no mention about the yearly extensions for which specific and separate orders needs to be passed.

27.5. This Court finds that continuing to retain the name of the petitioner in the history sheet is illegal and violative of Article 21 of the Constitution of India.

<https://hcservices.ecourts.gov.in/hrservices/>

2015 is hereby quashed and there shall be a direction to the
respondent Police to remove the name of the petitioner from the
record of history sheet rowdies.



28. It can be seen from all the above cases that there is a general pattern adopted trend by the Police to continue to retain the names of the persons in the history sheet showing them as rowdies without any justifiable reasons. The Police did not realise that the purpose of opening a history sheet is to keep surveillance and check on hardened and habitual criminals in order to maintain peace and tranquility in the society.

29. As mentioned above, it also becomes the duty of the Police to keep reviewing the history sheet regularly to ensure that the persons, who are no longer required to be retained in the list are removed from the list, since it involves the dignity and public image of a person which is guaranteed under Article 21 of the Constitution of India.

30. Whenever representations are made by the persons whose names are found in the history sheet, it is the duty of the respondent Police to consider the same, since it gives an opportunity to the respondent Police to review the history sheet and to ensure that only those names, which deserves to be kept in the history sheet are continued and all the other names are removed. It will be of no use for the respondent Police to keep the representation pending even without considering them and driving the concerned persons to file appropriate petition before this Court. This Court only hopes that the Police learns a lesson at least after the passing of this order, to be more sensitive and serious in maintaining history sheet.

31. One more factor which needs to be addressed is the pattern that is seen in all these cases. The Police seems to be adopting the practice of registering FIRs against the persons under Sections 109 and 110 of CrPC, just to open the history sheet and to justify the continuance of the name of the persons in the history sheet. Section 109 and Section 110 of CrPC are not meant for that purpose. Even in PSO No.747, there is requirement that automatic opening of history sheet can be done only if the person has been convicted more than twice under Section 109 of CrPC and more than once under Section 110 of CrPC. Therefore, mere registration of an FIR under Sections 109 and 110 of CrPC can never justify the action of the Police in continuing to retain the name of the person in the history sheet. These shortcut methods should never be adopted and the Courts can easily see-through it, if the same is done.

32. Before parting with these cases, this Court again draws the attention of the Director General of Police, Chennai and the Inspector General of Police of various Zones, to sensitize and educate the Police with regard to opening and closing of history sheet. This Court has already given such instructions in the judgment in **Manivanan Vs. State represented by The District**



Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501. However, the situation has not improved and it only seems to be deteriorating.

33. This Court wants to make it clear that in all future cases, where the retention of the name of a person in history sheet becomes a subject matter of challenge before this Court, if this Court finds that the name of the person has been retained without any justification and is in contravention with PSO Nos. 746 to 748 and the guidelines given by this Court, compensation will be granted to the victims and the same will be directed to be recovered from the monthly salary of the Inspector of Police in whose station the history sheet is being maintained. Consequently, all connected miscellaneous petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-II)

TO

- 1 THE GOVERNMENT OF TAMIL NADU
REP.BY THE HOME SECRETARY, FORT ST.GEORGE,
CHENNAI -9.
2. THE DISTRICT COLLECTOR,
SIVAGANGAI DISTRICT,
SIVAGANGAI.
3. THE COMMISSIONER OF POLICE,
TRICHY CITY, TRICHY.
4. THE COMMISSIONER OF POLICE,
TIRUNELVELI CITY, TIRUNELVELI DISTRICT.
5. THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT.
6. THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.
7. THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.
8. THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT , TIRUNELVELI -2.



9. THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT.

10. THE SUPERINTENDENT OF POLICE,
PUDUKKOTTAI DISTRICT.

11. THE ASSISTANT COMMISSIONER OF POLICE,
SRI RANGAM CIRCLE, TRICHY CITY.

12. THE ASSISTANT COMMISSIONER OF POLICE,
ANNA NAGAR (L & O) RANGE, MADURAI CITY, MADURAI.

13. THE ASSISTANT COMMISSIONER OF POLICE (L & O),
TIRUNELVELI CITY.

14. THE ASSISTANT COMMISSIONER OF POLICE,
SRI RANGAM CIRCLE, TRICHY CITY.

15. THE DEPUTY SUPERINTENDENT OF POLICE,
THUCKALAY, KANYAKUMARI DISTRICT.

16. THE DEPUTY SUPERINTENDENT OF POLICE,
MANAMADURAI, SIVAGANGAI DISTRICT.

17. THE DEPUTY SUPERINTENDENT OF POLICE,
VALLIYOOR, RADHAPURAM TALUK, TIRUNELVELI DISTRICT.

18. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUMANGALAM DIVISION, MADURAI DISTRICT.

19. THE DEPUTY SUPERINTENDENT OF POLICE,
KEERANUR, PUDUKKOTTAI DISTRICT.

20. THE INSPECTOR OF POLICE, K.PUDUR POLICE STATION,
MADURAI.

21. THE INSPECTOR OF POLICE,
APPANTHIRUPATHI POLICE STATION, MADURAI.

22. THE INSPECTOR OF POLICE,
THIRUPUVANAM POLICE STATION (L & O)
SIVAGANGAI DISTRICT.

23. THE INSPECTOR OF POLICE, PULUGAL P.S.
KANYAKUMARI DISTRICT.

24. THE INSPECTOR OF POLICE,
PANANGUDI POLICE STATION,
RADHAPURAM TALUK,
TIRUNELVELI DISTRICT.



25. THE INSPECTOR OF POLICE,
THIRUMANGALAM TALUK POLICE STATION,
MADURAI.
26. THE INSPECTOR OF POLICE,
AASARIPALLAM POLICE STATION,
NAGARCOIL, KANYAKUMARI DISTRICT.
27. THE INSPECTOR OF POLICE,
THILLAI NAGAR POLICE STATION (L & O)
TRICHY CITY.
28. THE INSPECTOR OF POLICE,
JUNCTION POLICE STATION,
TIRUNELVELI JUNCTION,
TIRUNELVELI & DISTRICT.
29. THE INSPECTOR OF POLICE,
PERUMALPURAM POLICE STATION,
TIRUNELVELI CITY, TIRUNELVELI.
30. THE INSPECTOR OF POLICE,
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
31. THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
32. THE INSPECTOR OF POLICE,
KEELASIVALPATTI POLICE STATION,
THIRUPPATHUR TALUK, SIVAGANGAI DISTRICT.
33. THE INSPECTOR OF POLICE,
CUTTRALAM POLICE STATION,
TIRUNELVELI DISTRICT.
34. THE SUB INSPECTOR OF POLICE,
PANANGUDI POLICE STATION,
PANANGUDI, RADHAPURAM TALUK,
TIRUNELVELI DISTRICT.
35. THE DEPUTY SUPERINTENDENT OF POLICE,
NAGARCOIL, KANYAKUMARI DISTRICT.

COPY TO

1. THE DIRECTOR GENERAL OF POLICE,



2.THE INSPECTOR GENERAL OF POLICE,
KANCHIPURAM.

3.THE INSPECTOR GENERAL OF POLICE,
COIMBATORE.

4.THE INSPECTOR GENERAL OF POLICE,
TRICHY.

5.THE INSPECTOR GENERAL OF POLICE,
MADURAI.

6.THE INSPECTOR GENERAL OF POLICE,
CHENNAI.

+1cc to Mr.M.Subash Babu, Advocate Sr.No.89655
+3cc to Mr.R.Gandhi, Advocate Sr.No.87652 to 87654
+1cc to Mr.K.P.Narayanakumar, Advocate Sr.No.87514
+3cc to Mr.R.Gandhi, Advocate Sr.No.87655,87656,87651
+1cc to Mr.P.Senthur Pandiyan, Advocate Sr.No.86688
+1cc to M/s.S.Vijaya Shanthi, Advocate Sr.No.87521
+1cc to Mr.S.M.S.Jinnah, Advocate Sr.No.87340

DSK

VB/SV/SAR2/30.11.2018/47P/53C

**common order made in
WP (MD) Nos.19651 of 2017, 14198,
14197, 14203, 16051, 16180, 17352,
17442, 18327 and 18373 of 2018,
19639 of 2017 and 19425 of 2018
&
CrIOP (MD) Nos.4496, 7467,
16468 of 2016 &
11849 and 14462 of 2017
26.09.2018**