



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.10.2018
CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.14824 of 2016
and
W.M.P. (MD) No.10960 of 2016

Senthil

... Petitioner

Vs.

- 1.The Commissioner of Police,
Madurai City.
- 2.The Deputy Commissioner of Police,
Madurai City.
- 3.The Assistant Commissioner of Police,
Thilagar Thidal,
Madurai City.
- 4.The Inspector of Police,
S.S.Colony Police Station (L & O)
Madurai City.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the respondents to remove the petitioner's name from the history sheet maintained by the fourth respondent in H.S.No.6 of 2014 within the period that may be stipulaed by this Court.

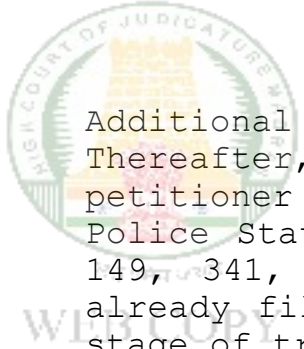
For Petitioner : Mr.R.Gandhi

For Respondents : Mr.B.Bhagawathi
Government Advocate

ORDER

This writ petition has been filed for a direction to the respondent police to remove the petitioner's name from the history sheet maintained by the fourth respondent in H.S.No.6 of 2014.

2.In this case, the name of the petitioner was added in the history sheet in the year 2014 in H.S.No.6 of 2014. The petitioner claims himself to be running a travel agency. Thereafter, he completed his law degree and he was attempting to enroll himself in the Bar. At that point of time, a case came to be registered in the year 2008 in Crime No.1200 of 2008 for an offence under Section 147, 148, 149, 302 and 506(ii) IPC. After full fledged trial, the petitioner was acquitted from the said case in the year 2011 by the



Additional Sessions Judge, Fast Track Court No.1, Madurai. Thereafter, another case came to be registered against the petitioner in Crime No.3 of 2011 on the file of the Kovilpatti Police Station for the offence punishable under Sections 147, 148, 149, 341, 307 and 506(ii) IPC. In this case, the police have already filed a final report and the case is still pending at the stage of trial.

3. According to the petitioner, apart from the above said two cases, there are no other cases registered by the respondent police against the petitioner.

4. The respondent police have filed a counter affidavit stating that the name of the petitioner was added in the history sheet in the year 23.08.2014. It is also revealed that the respondent police have also registered a case in Crime No.173 of 2015 under Section 110 of Cr.P.C and Crime No.431 of 2016 under Section 107 Cr.P.C. Therefore, the respondent police have taken a stand that the history sheet was opened against the petitioner in order to ensure that he would not involve in any other offence at a future date and that his movement requires surveillance.

5. 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 therein. 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 other offence. The only case that is pending against the petitioner, was registered in the year 2011. The subsequent two cases that have been registered under Section 110 Cr.P.C and Section 107 Cr.P.C is clearly a ruse to continue to retain the name of the petitioner as a history sheeter.

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 sheeter and passed a separate order in that regard.

7. This Court finds that these mandatory requirements have not been 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.

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. This case is also squarely covered by the judgment of this Court in W.P.(MD)No.19651 of 2017, dated 26.09.2018.

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 sheeter in HS No.6 of 2014 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. Consequently Miscellaneous Petition is closed.

Sd/

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The Commissioner of Police,
Madurai City.

2.The Deputy Commissioner of Police,
Madurai City.

3.The Assistant Commissioner of Police,
Thilagar Thidal,
Madurai City.

4.The Inspector of Police,
S.S.Colony Police Station (L & O)
Madurai City.

+1cc to Mr.R.GANDHI, Advocate, SR.No. 89951

+1cc to M/s.Special Government Pleader,SR.No.90159

W.P. (MD)No.14824 of 2016
and

W.M.P. (MD)No.10960 of 2016

RMI

KK/RP/SAR-1/30.11.2018/3P-7C