



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.[MD].No.20524 of 2018

S.Mahendran

... Petitioner

Vs.

1.The Commissioner of Police
Madurai City
Madurai

2. The Assistant Commissioner of Police
Madurai Town
Keela Masi Veethi
Madurai.

3. The Inspector of Police
Avaniyapuram Police Station
Madurai.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to remove the petitioner's name from the History Sheet on the file of the third respondent .

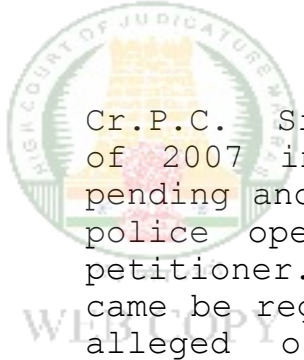
For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.M.Chandrasekaran
Additional Public Prosecutor

ORDER

This petition has been filed seeking to remove the name of the petitioner from the History Sheet which is maintained in the third respondent police station in H.S.No.293 of 2008.

2. In this case the name of the petitioner was added in the History Sheet in the year 2008 in H.S.No.293 of 2008. The petitioner claims himself to be a auto driver. In the year 2007, a huge problem arose due to demolition of Dr. Ambedkar Statue and therefore First Information Report came to be registered in Crime No.495 of 2007 for an alleged offence under Sections 147,341,188 IPC r/w. 151 of



Cr.P.C. Similar cases were filed in Crime Nos. 496 of 2007 and 507 of 2007 in the same year. In this case investigation is still pending and no final report has been filed. Therefore the respondent police opened history sheet in H.S.No.293 of 2008 against the petitioner. Subsequent to the pending history sheet, three more case came be registered in the year 2009 in Crime No.649 of 2009 for an alleged offence under Sections 323,336,294(b),506(ii) of IPC r/w.Section 3 of TNPPDL Act, Crime No.702 of 2009 for an offence under Section 3 of TNPPDL Act, Criem No.703 of 2009 for an offence under Section 3 of TNPPDL Act. In these cases also investigation is pending and no final reports have been filed.

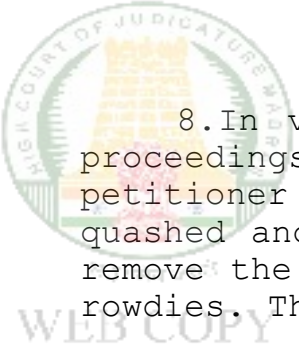
3. It is an admitted fact that after the year 2009, there are absolutely no cases registered against this petitioner.

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 therein. Therefore, this case will fall under PSO No.746.

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.

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

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.



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.293 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. There shall be no orders as to costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-II)

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To

1. The Commissioner of Police
Madurai City
Madurai

2. The Assistant Commissioner of Police
Madurai Town
Keela Masi Veethi
Madurai.

3. The Inspector of Police
Avaniyapuram Police Station
Madurai.

+1cc to The Spl Government Pleader, SR No.90203
+1cc to Mr.T.Thirumurugan, Advocate in SR No.90098

W.P. [MD] .No.20524 of 2018

NM/SKN/SAR II/13.11.18/3P/6C.