

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.01.2019
CORAM:
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
W.P.No.1171 of 2019

Kutty @ Sivakumar

...Petitioner

Vs.

1. The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai.

2. The Inspector of Police,
S-11, Tambaram Police Station,
Chennai.

...Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution, to issue a Writ of Certiorarified Mandamus quash the impugned letter dated 17.12.2018 on the file of the second respondent police and direct the respondents police 1 and 2 to remove the petitioner's name from the history-sheet list in H.S.No.73 of 2004 on the file of the Inspector of Police, S-11, Tambaram Police Station, Chennai/2nd respondent herein.

For Petitioner : Mr.B.Sridhar

For Respondents: Mr.M.Mohammed Riyaz

Additional Public Prosecutor for R1 & R2

O R D E R

This Writ Petition has been filed challenging the order passed by the second respondent dated 17.12.2018, rejecting the representation made by the petitioner.

2. The petitioner filed a writ petition before this Court in W.P.No.27967 of 2018, seeking for a direction to the second respondent to remove the name of the petitioner from the rowdy list in H.S.No.73 of 2004.

3. This Court passed the following order:

2.The learned counsel for the petitioner would submit that the petitioner is carrying on with the business of Fast Food. An F.I.R., came to be registered against this petitioner in Crime No.378 of 2003 for the offence under Section 302 IPC and in Crime No.608 of 2004 for the offence under Section 25 of Indian

Arms Act. Both these cases were investigated and a final report has been filed and both the cases are pending trial. In the meantime, the 3rd respondent had opened a history sheet against this petitioner in H.S.No.73 of 2004 and this history sheet is kept pending till date. The learned counsel would submit that the continuation of the name of the petitioner in the history sheet is in total violation of the Police Standing Orders and also brought to the notice of this Court, the judgment passed by this Court in W.P.(MD)No.19651 of 2017 dated 18.09.2018 and submitted that the retention of the name of the petitioner in the rowdy's list in H.S.No.73 of 2004 goes against the judgment referred supra.

3.The learned Additional Public Prosecutor would submit that the history sheet was opened in the year 2004 by the 3rd respondent Police and the same is being extended once in two years, since the respondent Police wants to keep a vigil of the movements of the petitioner.

4.It is seen from the records that the petitioner has given a representation to all the respondents on 18.07.2018, seeking to remove his name from the History Sheet list. In spite of receipt of the representation, the respondents have not taken any action till date. Admittedly, the History Sheet against the petitioner is maintained in the 3rd respondent Police Station till date.

5.In the facts and circumstances of the case, this Court directs the 3rd respondent Police to consider the representation dated 18.07.2018 made by the petitioner, in the light of the judgment of this Court in W.P.(M.D).No.19651 of 2017 dated 18.09.2018 and pass suitable orders within a period of four weeks from the date of receipt of a copy of this order. The petitioner is also given liberty to make a fresh representation to the 3rd respondent along with a copy of this order to enable the 3rd respondent to take appropriate action in accordance with law, within the time stipulated by this Court.

4. After the above said order was passed, the petitioner approached the third respondent and the third respondent has now passed an impugned order refusing to remove the name of the petitioner from the rowdy list. A bare perusal of the order clearly shows that the respondent police has not followed the guidelines given by this Court in W.P.(MD).No.19651 of 2017, dated 18.09.2018. The said impugned order has been passed in a mechanical fashion. Therefore, the impugned order has to be necessarily quashed by this Court and accordingly, the same is quashed.

5. This Writ Petition is allowed and there shall be a direction to the respondent police to consider the case of the petitioner in the light of the guidelines given by this Court in W.P.(MD).No.19651 of 2017, dated 18.09.2018 and pass necessary orders within a period of three weeks from the date of receipt of a copy of this order. It is made clear that the second respondent should strictly follow the guidelines given by this Court and should not resort to passing mechanical orders, without any application of mind.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Police,
St. Thomas Mount,
Chennai.

2. The Inspector of Police,
S-11, Tambaram Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.B.Sridhar, Advocates, S.R.No. 5105

W.P.No.1171 of 2019

AK(CO)

rrs 23/01/2019