

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15314 of 2016

1.Azhagan
2.Shanmuagam
3.Chennimalai

... Petitioners

Vs

1.The District Collector,
Erode District, Erode.

2.State, represented by
The Inspector of Police,
Burgur Police Station,
Erode District.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of Mandamus, directing the 1st respondent, the District Collector, Erode to consider the petitioner's representation dated 28.03.2016 to instruct the 2nd respondent police to remove the petitioners name from the history sheet in their Police station.

For Petitioners: Mr.V.Vijayakumar

For R1 & R2 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

ORDER

The prayer sought for in the present writ petition is to direct the 1st respondent, the District Collector, Erode to consider the petitioner's representation dated 28.03.2016 to instruct the 2nd respondent police to remove the petitioners name from the history sheet in their Police station.

2.The learned counsel appearing for the petitioners would submit that the petitioners are residing at Burgur Village & Post, Anthiyur via, Bhavani Talulk, Erode District, temporarily come down to Chennai. There is some land dispute with one Selvan of their Village with regard to an immovable property. The said Selvan is a very highly influenced person and he has foisted several criminal cases as against the petitioners which resulted

in registering the case under sections 294(b), 323, 324 & 506 (ii) IPC. The second respondent has registered another criminal case as against the petitioners in Crime.No.45 of 2015 for alleged offences under Sections 147,148,294(b),447,506(ii) IPC. In continuation, in order to harass the petitioners and to restrict their movements at the instigation of the superior officers in the Police Department, History Sheeted Rowdy Book was opened at the second respondent police station and the petitioners was compelled to attend the police station in the pretext of enquiry in a routine manner. In this

regard, the petitioners had already made several representations to delete the History Sheet, but the respondents have not yet considered till date. Therefore, he sought for allowing the writ petition.

3.The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioners are an habitual offender indulging in rowdy activities, extortion, katta panchayats, etc. Hence, History Sheeted Rowdy Book was opened at the second respondent police station as against the petitioners and it is being exanded regularly as per the Police Standing Order. Therefore, he prays to dismiss the writ petition.

4.Heard Mr.V.Vijayakumar, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor., appearing for the respondents.

5.The issue involved in this writ petition has already been dealt with by the Madurai Bench of this Court and detailed order has been passed in W.P.(MD)No.19651 of 2017 on 26.09.2018. On the basis of the above said Order, the Director General Of Police, Chennai issued a circular in Rc.No. 133410/Crime 4(3)/2018 dated 05.10.2018, which reads as follows :-

The Hon'ble Madurai Bench of Madras High Court in its order dated 26.09.2018, in a batch of cases, in the reference second cited, while quashing the Histroy Sheet maintained in certain Police Stations and which are challenged before the Hon'ble Court, has observed and directed as follows :-

"28..... 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

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 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..... 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. 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.

32.....

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....."

2. Provisions contained in PSO 746 to 748 and the above orders of the Hon'ble High Court shall be followed scrupulously while maintaining the history sheets by the SHOs.

3. All Sub-Divisional Officers shall periodically review all History sheet files and Rowdy sheet files maintained in the Police Station under their jurisdiction.

4. IGPs in Zones, COPs in cities and the SPs in District shall sensitize all the Police personnel working under their jurisdiction in this regard and also review the cases periodically."

6. In view of the above circular passed by the Director General of Police, Chennai, this Court is inclined to pass the following orders :-

(i) The petitioners are directed to submit a fresh representation before the second respondent within a period of two weeks from the date of receipt of a copy of this Order.

(ii) On receipt of such representation, the second respondent is directed to remove the name of the petitioners from the history sheet maintained by the second respondent Police Station.

7. With the above directions, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vsn

To

1. The District Collector,
Erode District, Erode..

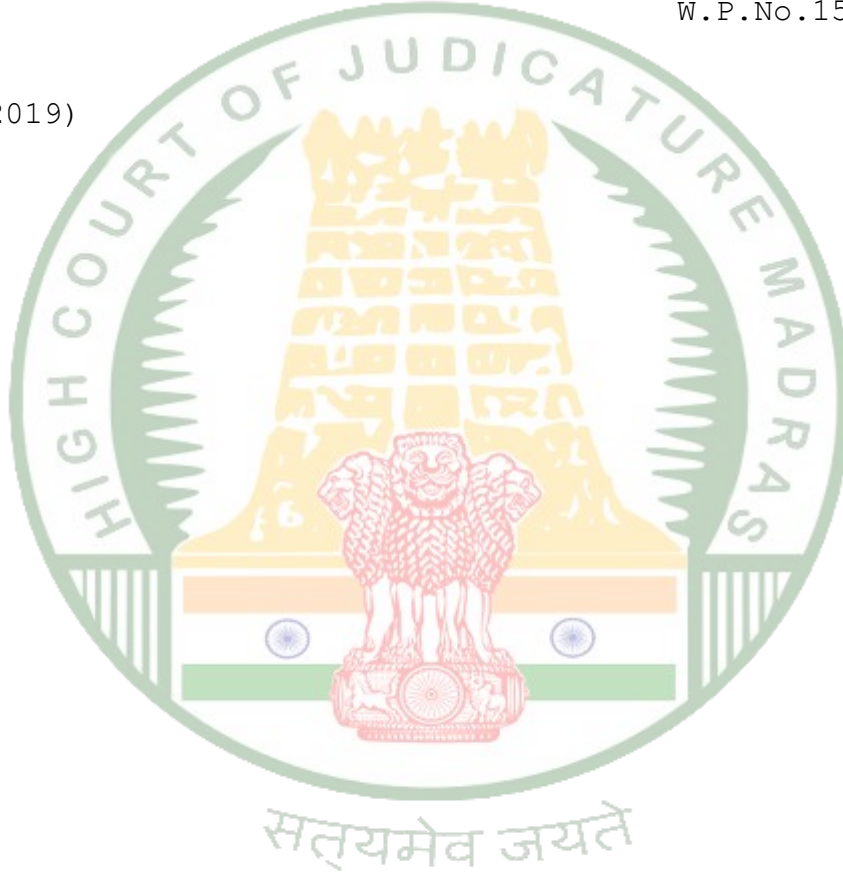
2.The Inspector of Police,
Burgur Police Station,
Erode District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Vijaya Kumar, Advocate, S.R.No. 13995

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MP (CO)
GN (29/03/2019)



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