

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2019

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THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3620 of 2019
and WMP.No.3965 of 2019

R.Senthil @ Senthilkumar

.. Petitioner

.Vs.

1.The Superintendent of Police,
Erode District, Erode.

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

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to remove the petitioner's name from the rowdy list in H.S.No.381 of 2007 maintained in the 2nd respondent police station.

For Petitioner : Mr. C.Prakasam

For Respondent : Mr. M.Mohamed Riyaz
Additional Public Prosecutor.

O R D E R

The prayer sought for in the present writ petition is to direct the respondents to remove the petitioner's name in the History Sheet maintained in the 2nd respondent police Station.

2.Mr.C.Prakasam, learned Counsel for the petitioner would submit that the petitioner is running a Medical Shop at Perundurai, Erode and also cultivating agricultural crops in his own land. Certain false cases were registered against the petitioner and the petitioner has been acquitted in all the cases. The learned Counsel would further submit that though the petitioner has been acquitted in all the cases against him, the 2nd respondent had opened the History Sheet against this petitioner in the year 2007 and the same is being extended from time to time, till today. Therefore, he sought for allowing the writ petition.

3.The learned Additional Public Prosecutor representing the respondent police would submit that the petitioner is an habitual offender. Even though the petitioner has been acquitted from the Criminal Cases, the respondent Police has to keep surveillance on the movement of the petitioner and retention of the name of the petitioner in the History Sheet is being extended from time to time, as per the Police standing orders. Therefore, he prays to dismiss the writ petition.

4.Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.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 History 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 citities 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 veiw of the above circular passed by the Director General of Police, Chennai, this Court is inclined to pass the following orders :-

(i) The petitioner is directed to submit a fresh representation before the 2nd 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 2nd respondent is directed to remove the name of the petitioner from the history sheet in H.S.No.381 of 2007 maintained by the 2nd respondent Police Station.

7. With the above directions, the writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.
rm

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Superintendent of Police,
Erode District, Erode.

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

3.The Public Prosecutor
High Court, Madras.

4. The Director General Of Police,
Chennai.

+1CC TO Mr.c.Prakasam, Advocate,Sr.No.11664

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AK(CO)

Kak(21/03/2019)