

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2019

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7658 of 2019

P.Thamarai Selvam

... Petitioner

Vs.

- 1.The Superintendent of Police,
O/o.Superintendent of Police,
Thiruvarur District.
- 2.Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Thiruvarur District.
- 3.The Inspector of Police,
B-6, Vadapathimangalam Police Station,
Vadapathimangalam,
Thiruvarur District. ... Respondents

Prayer : Criminal Original petition filed under Section 482 of Criminal Proceedur Code, to direct the respondents to remove the petitioner's name from the History Sheet maintaining by the third respondent in pursuant of the petitioner's representation dated 03.03.2019.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondents: Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

O R D E R

The prayer sought for in the present petition is to direct the respondents to remove the petitioner's name in the History sheet maintained in the third respondent Police Station.

2. The learned counsel appearing for the petitioner would submit that the petitioner is running a printing press in the name and style of Thamari Printers and also involved in social service activities in the local area. While so, on 16.10.2018, the petitioner was brutally attacked by a gang of persons and he was admitted in the hospital for treatment and a case was

registered in Crime No.156 of 2018 as against six accused persons and the case is still pending in the investigation stage. Whiles, the respondent police have registered a case as against the petitioner in Crime No.93 of 2018 and the same was taken cognizance on the file of the learned Judicial Magistrate, Mannargudi. In continuation, in order to harass the petitioner and to restrict his movements, at the instigation of the superior officers in the Police Department, History Sheeted Rowdy Book was opened at the third respondent police station and the petitioner was compelled to attend the police station in the pretext of enquiry in a routine manner. In this regard, the petitioner 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 petitioner is an habitual offender indulging in rowdy activities, extortion, katta panchayats, etc. Hence, History Sheeted Rowdy Book was opened at the third respondent police station as against the petitioner and it is being extended regularly as per the Police Standing Order. Therefore, he prays to dismiss the writ petition.

4. Heard Mr.P.Muthamizh Selvakumar, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents.

5. The issue involved in this 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. IGP 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 petitioner is directed to submit a fresh representation before the third 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 third respondent is directed to remove the name of the petitioner from the history sheet maintained by the third respondent Police Station.

7. With the above directions, the Criminal Original petition stands allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
O/o.Superintendent of Police,
Thiruvavur District.

2. Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Thiruvarur District.

3. The Inspector of Police,
B-6, Vadapathimangalam Police Station,
Vadapathimangalam,
Thiruvarur District.

4. The Public Prosecutor,
High Court, Madras.

+1cc to M/S.P.Muthamizh Selvakumar, Advocate Sr.26742

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