

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11826 of 2019
and
W.M.P.No.12035 of 2019

S.R.Nallasivam ...Petitioner
Vs.

- 1.The Superintendent of Police,
Erode District, Erode.
- 2.The Inspector of Police,
Modakkurichi Police Station,
Modakkurichi, Erode District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to remove the petitioner's name from the rowdy list in H.S.No.10 of 1985 maintained by the 2nd respondent in the 2nd respondent police station.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.C.Raghavan
Government Advocate (Crl.Side)

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 from the rowdy list in H.S.No.10 of 1985 maintained by the 2nd respondent Police.

2. The learned counsel appearing for the petitioner would submit that the petitioner is residing at Chavadipalayampudur, Nanjai Uthukuli Village, Modakkurichi Taluk, Erode District. In the year 1983, Doctor Ramadoss, Founder of the PMK was invited to his village for hosting political flag. The petitioner participated and agitated in the said political party. In continuation of the same, the petitioner was arrested for precautionary measures, Eventhough the petitioner did not involve in any illegal activities, his name has been falsely implicated in the history sheet list only for the political

motivation in the year 1985 in H.S.No.10 of 1985 by the second respondent. Hence, at the instigation of the superior officers in the Police Department and in continuation to restrict his movements and to harass the petitioner. In order to wreck vengeance, plenty of criminal cases have been falsely foisted as against the petitioner. History Sheeted Rowdy Book was opened at the second respondent police station and the petitioner was compelled to attend the police station under the pretext of enquiry in a routine manner. In this regard, the petitioner had made a representation on 28.03.2019 before the first respondent to delete his name from the History Sheet, but the first respondent has not taken any action in this regard. Therefore, he sought for allowing this writ petition.

3. The learned Government Advocate (Crl. Side) appearing for the respondents submitted that several cases have been filed against the petitioner. Hence, History Sheeted Rowdy Book was opened at the second 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.C.Raghavan, learned Government Advocate (Crl.Side) 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 citites 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 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 petitioner from the history sheet maintained by the second respondent Police Station.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

To

- 1.The Superintendent of Police,
Erode District, Erode.
- 2.The Inspector of Police,
Modakkurichi Police Station,
Modakkurichi, Erode District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.Prakasam, Advocate, S.R.No. 38512

W.P.No.11826 of 2019
and W.M.P.No.12035 of 2019

SSI (CO)
GN(28/05/2019)



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