

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.03.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3908 of 2017 and

W.M.P.No.3971 of 2017

N.Kabilan

... Petitioner

Vs.

1. State; Represented by,
The Commissioner of Police, Greater Chennai,
Vepery, Chennai-600 007.

2. The Inspector of Police,
R-6, Kumaran Police Station,
Jafferkhanpet, Chennai - 600 078.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to consider the representation dated 06.10.2016 and further direct the 2nd respondent herein to remove the name of the petitioner from the rowdy list record.

For Petitioner : M/s. K.Ramkumar

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

O R D E R

The prayer sought for in the present writ petition is to direct the first respondent to delete the petitioner's name in the History sheet maintained in the second respondent Police Station.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a painter, in the year 1998, the 2nd respondent police had registered an FIR in Crime No.2102 of 1998 for the offences 364 and 302 IPC arrayed as one of the accused. During the pendency of the said case, the 2nd respondent was enlisted as a History Sheeter in the list of rowdies maintained by the 2nd respondent police, the second respondent police would forcibly taken him to the police station and had foisted cases under Sections 151 and 110 CrPC., and under Section 75 of City Police Act for a history sheeter. In 2011, the respondent police had falsely implicated him in Crime No.1424 of 2011 under Section 341, 324, 506(ii) IPC and Crime

No.1601 of 2011 under Sections 147, 148, 341, 323, 334, 294(b), 307, 506(ii) read with Section 120(B) IPC the charge sheet is yet to be filed in the said crimes. On 01.10.2016, while he was working, the 2nd respondent police had forcibly entered his residence and requested him to come to the police station immediately, failing which dire consequences would be faced. Therefore, the petitioner was given a detailed representation dated 06.10.2016 to the respondents to consider his removal from the history sheet, there was no steps taken by the respondent police so far. Hence, in order to wreck vengences, plenty of criminal cases have been foisted as against the petitioner. 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 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 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 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.K.Ramkumar, 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 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 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 first 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 W.M.P.No.3971 of 2017 is closed.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Commissioner of Police, Greater Chennai,
Vepery, Chennai-600 007.

2. The Inspector of Police,
R-6, Kumaran Police Station,
Jafferkhanpet, Chennai - 600 078.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Moorthi, Advocate, S.R.No.20089

W.P.No.3908 of 2017

SSI (CO)

RRS (12/04/2019)



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