



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2019

CORAM:

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THE HONOURABLE MR.JUSTICE **G.K. ILANTHIRAIYAN**

W.P (MD)No.7632 of 2018

Thangaraj Pandian

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Home,
Fort. St. George,
Chennai.
- 2.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 3.The Deputy Superintendent of Police,
Keelakarai,
Ramanathapuram District.
- 4.The Inspector of Police,
Sayakalkudi Police Station,
Kadaladi Taluk,
Ramanathapuram District.

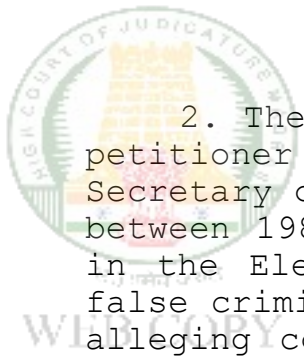
..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court, to issue a Writ of Mandamus, directing the respondents to revoke the history sheet opened against the petitioner in History Sheet No.635/2005, within the time that may be stipulated by this Court.

For Petitioner	: Mr.Mahaboob Athiff for M/s.Ajmal Associates
For Respondents	: Mr.K.Suyambulinga Bharathi 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.635/2005.



2. The learned counsel for the petitioner would submit that the petitioner is a Diploma holder in Co-operation. He served as the Secretary of the Primary Agriculture Co-operative Society at Mariyur between 1988 and 1996. He was fielded as a co-ordinate to contest in the Election for the Tamil Nadu General Assembly in 2006. A false criminal case came to be foisted against him in the year 2000, alleging commission of offence under Section 435 of IPC., that he set a fence on fire. The said case was charge sheeted in C.C.No.114 of 2000 and was closed on the basis of the decision of Lok Adalath dated 15.04.2006. In fact, on the basis of the said criminal case, the police opened a history sheet against him in History Sheet No.365 / 2005 on 30.09.2005. He came to know of the said history sheet only in the year 2009, when he was informed of the same in reply to a Right to Information Act application. In the said reply, it has been stated that two criminal cases were pending against him in Crime Nos.88 of 2008 and 124 of 2008 on the file of the 4th respondent police station. However, he was also honourably acquitted by the Assistant Session Court, Paramakudi by its order dated 06.01.2010 finding no evidence against him. Hence, the petitioner gave a representation to the 2nd respondent in person to remove his name from the rowdy list. So far no action has been taken, hence the petitioner before this Court.

3.The learned Government Advocate (Crl.side) 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 exanded regularly as per the Police Standing Order. Therefore, he prays to dismiss the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent and perused the materials available on records.

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



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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



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

(i) It is seen that the petitioner has given a representation as early as on 30.06.2011 & 21.12.2012, thereafter he has not given any representation to the concerned respondent. Therefore, considering the facts and circumstances of the case, the petitioner is at liberty 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 pass orders, on merits and in accordance with law, within a period of four weeks from the date of representation of the petitioner.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar



To

- 1.The Secretary,
Department of Home,
Fort. St. George, Chennai.
- 2.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.
- 3.The Deputy Superintendent of Police,
Keelakarai, Ramanathapuram District.
- 4.The Inspector of Police,
Sayakalkudi Police Station,
Kadaladi Taluk,
Ramanathapuram District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1CC TO M/S.AJMAL ASSOICATES, ADVOCATE, SR NO.86479

W.P (MD) No. 7632 of 2018
12.09.2019

VSD

MS/03.10.2019/5P.7C