



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.04.2019

Delivered on : 12.07.2019

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.21727 to 21730 of 2015

Anandan	... Petitioner in WP(MD)No.21727 of 2015
Pottu @ Sasikumar	... Petitioner in WP(MD)No.21728 of 2015
Sankar	... Petitioner in WP(MD)No.21729 of 2015
Kalyani @ Kalyanasundaram	... Petitioner in WP(MD)No.21730 of 2015

Vs.

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

2.The Deputy Superintendent of Police,
Alangudi,
Pudukkottai District.

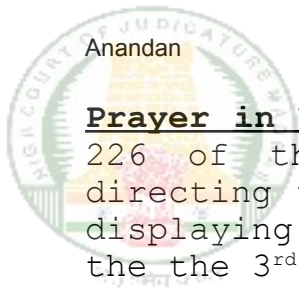
3.The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.

... Respondents in all petitions

Prayer in WP(MD)No.21727 of 2015: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to remove the name of the petitioner from displaying as 'Rowdy' in the Rowdy in the Rowdy List Serial No.21 in the the 3rd respondent Police Station.

Prayer in WP(MD)No.21728 of 2015: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to remove the name of the petitioner from displaying as 'Rowdy' in the Rowdy in the Rowdy List Serial No.16 in the the 3rd respondent Police Station.

Prayer in WP(MD)No.21729 of 2015: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to remove the name of the petitioner from displaying as 'Rowdy' in the Rowdy in the Rowdy List Serial No.22 in the the 3rd respondent Police Station.



Prayer in WP(MD)No.21730 of 2015: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to remove the name of the petitioner from displaying as 'Rowdy' in the Rowdy in the Rowdy List Serial No.20 in the the 3rd respondent Police Station.

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For Petitioner : Mr.M.Karunanithi
for Mr.D.Ramesh Kumar

For Respondent : Mr.R.Anandharaj,
Additional Public Prosecutor
in all WPs

COMMON ORDER

Since the issue involved in all these writ petitions are one and the same, they are disposed of by way of this common order.

2.The petitioners in the above writ petitions are the accused No.8, 3, 9 and 7 in SC No.31 of 2012, on the file of the Principal District and Sessions Judge, Pudukkottai respectively. The Inspector of Police, Alangulam Police Station has opened the rowdy list as against these petitioners on 02.01.2011 and 01.01.2011 respectively, based on the case registered against them in Crime No.365 of 2010 for the offence punishable under Sections 147, 148, 341 and 302 IPC.

3.According to the petitioners rowdy list was opened against them maliciously and without following the guidelines contemplated in opening the history sheet/ rowdy list in the Police Standing Orders PSO Nos.746(1), 747, 748(2) and 749. The rowdy list opened against the petitioners on 01.04.2011 and 02.04.2011 was also continued in a mechanical manner without even adhering to the Police Standing Orders and obtaining concurrence from the superior officers. The present writ petitions, challenging the said rowdy list, have been filed by the petitioners in the year 2015.

4.It is the further case of the petitioners that history sheet was opened in the year 2011, even prior to the filing of the final report in Crime No.365 of 2010 before the Court and in this case the trial was taken up by the learned Additional District and Sessions Judge, Pudukottai and the trial Court by order dated 28.02.2014, acquitted all the accused including the writ petitioners, as there was no case made out against these petitioners. Even though the accused were acquitted in the year 2014 itself, the respondent Police has been maintaining the history sheet mechanically and without obtaining any orders from superior officers.



5.The learned Counsel for the petitioners relied upon the following judgments in support of their contentions:

1.**S.Vani Vs. Superintendent of Police, Sivagangai District**, reported in **2008(3) MLJ Cr1 1525**;

2.**KM.Sheriff Vs The Superintendent of Police, Pudukkottai**, reported in **2006(2) MWN Cr1 P 421**;

3.**Ganesan Vs. The District Superintendent of Police, Virudhunagar District**, reported in **2010(6) CTC 507**;

4.**Manivannan Vs State represented by the District Collector, Coimbatore District** and others, reported in **(2013) 7 MLJ 501**;

6.Heard the learned Counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

7.When the matter is taken up for hearing the learned Additional Public Prosecutor produced the copies of the letters dated 26.07.2018 written by the Inspector of Police, Alangudi Police Station, wherein he has made recommendation to the Deputy Superintendent of Police, Alangudi, Pudukottai District, to close the rowdy list opened as against these petitioners and the Deputy Superintendent of Police, Alangudi, by accepting the recommendation of the Inspector of Police, Alangudi, by his order dated 27.07.2018 closed the rowdy list opened against the petitioners on 02.04.2011 and 01.04.2011, respectively.

8.A perusal of the records would disclose that the petitioners were arrayed as accused Nos. 8, 3, 9 and 7 in SC No.31 of 2012 and except this case, they have not involved in any other case and the case in SC No.31 of 2012 also ended in acquittal as early as on 28.02.2014.

9.A reading of the Police Standing Orders pertaining to the opening of rowdy list/ history sheet would disclose that based on an isolated case, a person cannot be branded as a rowdy element. The accused must be addicted to commission of crime and the concerned Station House Officer, must have arrived at a subjective satisfaction to brand the person as a rowdy element. For retaining the history sheet, after two years of registration, orders of an officer above the rank of Assistant Superintendent of Police or Additional Superintendent of Police must be taken as per PSO 748(2).

10.This Court, in a recent judgment has discussed this issue elaborately as follows:

a. In order to facilitate the study of crime and criminals, the Police Standing Orders provides a mechanism, whereby every Police Station shall maintain a crime history, which shall be a confidential record. In this record

all cases of crime that are mentioned in PSO No.742, which provides various classes of crime, shall be



entered and even an attempt to commit those offences, are entered in the records maintained in the Police Station.

b. These crime records maintained by the Various Police Stations shall be reviewed every year by the Inspector of Police of the concerned Police Station. On such review, the Inspector of Police has to furnish a concise appreciation of the year's crime for the benefit of the Superior Officers and also to make suggestions in order to improve the quality of crime control. The review undertaken by the Inspector of Police is not merely a catalogue of the crime in the year. It should reflect the valuable suggestions in order to prevent such crimes in future and to provide ways and means of handling serious offences in an effective manner.

c. History Sheet can be opened by the concerned Police Station under two circumstances. The first circumstance is provided under PSO No.746, which states that the history sheet can be opened against a person who is a resident (permanently or temporarily) within the station limit, who is known or believed to be addicted to commission of crime, whether convicted or not. Here the thrust is on the habituality or the propensity to commit a crime by a person, which is sought to be monitored by opening a history sheet.

d. The second category of persons against whom history sheet can be opened are the persons, who are convicted for various offences that has been listed in PSO No.747, wherein opening of the history sheet is automatic.

e. In the first category of opening history sheet, month wise scrutiny or a close watch on the person concerned is contemplated. Here also there is sub-categorization as, close watch bad characters and non-close watch bad characters. In the former, the entry shall be made month wise and in the later, the entry shall be made once in a quarter. What is entered is normally anything of interest in respect of the bad character, which goes to the notice of the Police. These records must be checked and brought upto date once in a year. Here the main thrust is on **"Current Doings"**.



f. In the second category of opening history sheet, a mere act of conviction under the offences listed in PSO No.747 is enough. The name of the persons, who have been convicted for those offences can be retained for a period of two years after their release from jail.

g. PSO No.748, is the most important provision, which deals with discontinuance of history sheet. This provision is common to both the categories falling under PSO Nos.746 and 747. As per PSO No.748, the Superintendent of Police may order a closure of a history sheet at any time. But, the Divisional Officer can order closure of history sheet only after the expiry of the period stipulated in PSO No.747.

h. As per PSO 748, where retention of the history sheet is considered to be necessary, even after two years of registration, orders of an Officer of and above the rank of Assistant Superintendent of Police/ Deputy Superintendent of Police must be taken for extension for the first instance upto the end of next December. For further annual extension from January to December, separate orders must be passed every time by an Officer of and above the rank of Assistant Superintendent of Police / Deputy Superintendent of Police. This provision is made applicable even for rowdy sheeters.

i. For the purpose of passing such orders, there must be valid materials available on record and it cannot be passed on the whims and fancies of the Police Officers. Therefore, the authority empowered to extend the period of retention of the names of the persons in the history sheet, should record his reasons based on both objective and subjective instructions.

j. Branding a person as a history sheeted rowdy, taints the name and image of the person. It is true that the entire purpose of maintaining a history sheet is to ensure public peace. However, it should be balanced with the fundamental right guaranteed to every citizen under Article 21 of the Constitution of India. Therefore, a fair and reasonable decision, based on the materials, with sufficient reasons, becomes sine qua non to retain the name of a person as a history sheeted beyond the period stipulated in the Police Standing Orders.



k.This Court has time and again brought the above principle to the notice of the Higher Police Officials and in one of the judgments in **Manivanan Vs. State represented by The District Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501**, this Court felt that there is lack of understanding on the part of the Police in maintaining history sheet and therefore, directed the Director General of Police to issue necessary instructions / guidelines / circulars with regard to the manner in which it has to be maintained and the manner in which the orders will have to be passed for extension of the period to continue a person as a history sheeter.

11.These writ petitions have been filed as against the rowdy list opened against them and admittedly, based on the recommendation of the Inspector of Police, Alangudi Police Station, the Deputy Superintendent of Police, Alangudi, Pudukottai District by his order dated 27.07.2018, closed the rowdy list opened against the petitioners.

12.The learned Counsel for the petitioners, at the time of hearing, prayed for a direction for grant of compensation to the petitioners. The main prayer in these writ petitions is to remove the names of the petitioners from the rowdy list. Though there is error apparent on the side of the respondent Police, in opening the rowdy list against the petitioners and also retaining rowdy list beyond the period of two years without any valid reasons, there is no relief sought for compensation in these writ petitioner and hence, this Court is not in a position to order any compensation without there being any prayer. However, it is open to the petitioners to file appropriate proceedings for grant of compensation before the competent Civil Court by adducing evidence, if so, they are advised.

13.In the result, the writ petitions are disposed of with the above observation. No cost.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)



Anandan

To

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

2.The Deputy Superintendent of Police,
Alangudi,
Pudukkottai District.

3.The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.

+1 CC to Mr.D.RAMESHKUMAR, Advocate SR-75072.

**Pre-Delivery Order made
in
WP(MD)No.21727 to 21730 of 2015
12.07.2019**

CS(20.09.2019) 7P 5C