

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 11992 of 2020
and CrI.M.P. No. 4775 of 2020

Sirajudeen

...Petitioner

Vs.

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Anaikuppam,
Cuddalore.

2. State rep. by
Inspector of Police,
Puthur Police Station.
(In H.S. No.152 of 2016)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents to remove the name of the petitioner from the History Sheet maintained in H.S. No.152 of 2016 on the file of the respondents.

For Petitioner : Mr.A.Raja Mohamed

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

This petition has been filed for a direction directing the respondents to delete the petitioner's name in the History sheet maintained in the 2nd respondent Police Station.

2. The learned counsel appearing for the petitioner would submit that the petitioner was elected as a President of Village Panchayat in Kollumedu, Cuddalore District during the year 2011-2016, and he has contested as an independent candidate and won the election against Mr.Shafiq Rahman, Ex-President of the Panchayat, who was supported by Mr.A.V.Abdul Nasar. He would submit that because of getting defeated in the election, Mr.A.V.Abdul Nasar felt ashamed and started to create hurdles to the petitioner while performing his duties and to show his political influence, he had illegally constructed a party office at the panchayat land, for which the petitioner opposed and asked him to vacate the panchayat land, which he illegally encroached. However, to get revenge for his defeat and by colluding with the 2nd respondent,

Mr.A.V.Abdul Nazar fabricated false case against the petitioner without following due process of law and with mala fide intention, the 2nd respondent had registered 3 F.I.R.s against the petitioner, which subsequently disposed in favour of petitioner by the learned District Munsif cum Judicial Magistrate Court, Kattumannarkoil for not having sufficient evidences against the petitioner. After which, no other cases registered against the petitioner. Hence, entering the name of the petitioner in the history sheet record for non-cognizable offences, which are already disposed in favour of petitioner for insufficient evidences, is contrary of law. Therefore, he prayed to direct the respondents to remove the name of petitioner from the history sheet maintained by the respondents.

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 2nd 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 Criminal Original Petition.

4. Heard Mr.A.Raja Mohamed, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondents.

5. The issue involved in this Criminal Original 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 Histroy 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 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 2nd 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 consider the representation, in view of the direction issued by this Court and pass orders on merits within the period of four weeks from the date of the receipt of the representation.

7. With the above directions, this Criminal Original Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (ADI MDU)

//True copy//

Sub Assistant Registrar

rpp

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Anaikuppam, Cuddalore.

2. Inspector of Police,
Puthur Police Station,
Cuddalore District.

3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No. 11992 of 2020
and Crl.M.P. No.4775 of 2020

AD(CO)
GMY(23/09/2020)



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