

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

CrI.O.P.No.15857 of 2020

P.Gopu

.. Petitioner

Vs.

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

2. The Deputy Superintendent of Police,
Chengalpattu Sub Division,
Chengalpattu District.

3. The Inspector of Police,
Padalam Police Station,
Chengalpattu.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the first and second respondents to delete the petitioner's name from the history sheet rowdy list pending on the file of the third respondent, based on his representation dated 25.07.2020 within the time framed by this Court.

For Petitioner : Mr.G.Punniakoti

For Respondents : Mrs.M.Prabhavathi

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking direction to direct the first and second respondents to delete the petitioner's name from the history sheet rowdy list pending on the file of the third respondent, based on his representation dated 25.07.2020.

2. The learned counsel appearing for the petitioner would submit that the petitioner is doing the sale of bricks by installing brick kiln. Previously in the years 2000 to 2005, he ran a business by using a lorry in which he transported the sand and sold to the public. Since the driver of his lorry indulged

in sand theft, without any knowledge and permission of the petitioner herein, he was prosecuted in his capacity as the owner of the lorry and criminal case was registered against him. In the year 2014, the petitioner herein sold his lorry and doing brick business. 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 third respondent police station and the petitioner was compelled to attend the police station in the pretext of enquiry in a routine manner. In this regard, the petitioner had already made representation on 25.07.2020 to delete the name in the History Sheet, but the respondents have not yet considered till date. Therefore, he sought for allowing this 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 third 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 Criminal Original Petition.

4. Heard the learned counsel appearing for the petitioner and the 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. 66569/Crime 3(2)/2019 dated 24.04.2019, which reads as follows :

7. From the above judgments the following principles emerge insofar as history sheeters are concerned:

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 years 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 sheeter 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.

8.The above principles that has been culled out of various decisions of this Court will now be applied to each case in order to see if the Police officials have scrupulously followed all the Police Standing Orders and the judgments of this Court, while retaining the name of a person as a history sheeter, beyond the stipulated period.

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 third respondent is directed to consider the petitioner's representation, dated 25.07.2020 and pass orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this Order.

7. With the above directions, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.The Deputy Superintendent of Police,
Chengalpattu Sub Division,
Chengalpattu District.

3.The Inspector of Police,
Padalam Police Station, Chengalpattu.

4.The Public Prosecutor, High Court, Madras.

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AJS (CO)

RMP (10/11/2020)