



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. (MD)No.11451 of 2020

WEB COPY

Suresh Kannan

... Petitioner

Vs.

1.State rep by

The Superintendent of Police,
Pudukkottai, Pudukkottai District.

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

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

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to remove the petitioner's name from the Rowdy list (AS.KD) in the third respondent Police Station on the basis of the petitioner's representation dated 02.09.2020.

For Petitioner : Mr.G.Mathavan

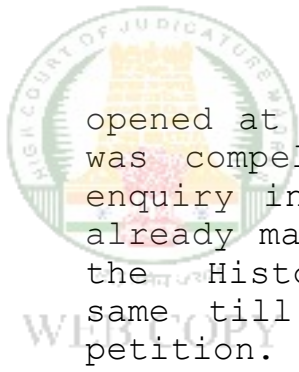
For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction to direct the respondents to remove the petitioner's name from the Rowdy list (AS.KD) in the third respondent Police Station, on the basis of the petitioner's representation dated 02.09.2020.

2.The learned counsel appearing for the petitioner would submit that the petitioner is a Businessman. In the year 2013, a case in Crime No.74 of 2013 has been registered against the petitioner and thereafter, he was acquitted in the said case in S.C.No.48 of 2014 on the file of the Additional District and Sessions Judge, Pudukkottai, on 06.01.2016. He would further submit that except the said case, no other case is registered against the petitioner. Thereafter, the respondent police intentionally initiated the proceedings against the petitioner under Section 110 Cr.P.C in the year 2019 at the time of executing the bond. 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 in the pretext of enquiry in a routine manner. In this regard, the petitioner had already made a representation on 02.09.2020 to delete his name in the History Sheet, but the respondents have not considered the same 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 and is indulging in rowdy activities, extortion and Katta Panchayats, etc. Therefore, History Sheeted Rowdy Book was opened at the third respondent Police Station as against the petitioner and it is extended regularly as per the Police Standing Order. Therefore, he prayed for dismissal of this Writ 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 Writ Petition has already been dealt with by 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 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 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 order :-

The third respondent is directed to consider the petitioner's representation, dated 02.09.2020 and pass orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

7. This Writ Petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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Note :- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Superintendent of Police,
Pudukkottai,
Pudukkottai District.
2. The Deputy Superintendent of Police,
Pudukkottai,
Pudukkottai District.
3. The Inspector of Police,
Thirugokarnam Police Station,
Pudukkottai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

W.P. (MD) No. 11451 of 2020
11.09.2020

KM (21.09.2020) 5P 5C

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