



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD)No.16476 of 2020

K.Kannankumar

... Petitioner

vs.

1)The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2)The Deputy Superintendent of Police,
O/o. of the Deputy Superintendent of Police,
Srivilliputhur,
Virudhunagar District.

3)The Inspector of Police,
Watrap Police Station,
Virudhunagar District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 03.11.2020 passed by the 3rd respondent and quash the same and consequently direct the 3rd respondent to remove the petitioner's name from the history sheet No.647 maintained by the 3rd respondent police station.

For Petitioner : Mr.M.Ganeshkamu

For Respondents : Mr.R.Srinivasan

Government Advocate (Crl.Side)

O R D E R

The writ petition has been filed calling for the records pertaining to the impugned proceedings dated 03.11.2020 passed by the 3rd respondent and quash the same and consequently direct the 3rd respondent to remove the petitioner's name from the history sheet No.647 maintained by the 3rd respondent police station.

2.According to the petitioner, he is working as Police Constable in the Tamil Nadu Police Department and when he was on leave, he stayed at Virudhunagar. He was arrayed as accused in Crime No.37/2018 registered under Section 302 IPC by the 3rd respondent police. Subsequently, on the inspection of the then Sub Inspector of Police attached to the 3rd respondent police station, the petitioner was again arrayed as accused under Section 379 IPC in 4 cases and subsequently he was acquitted from the



charges, but the 3rd respondent opened history sheet as against the petitioner on 15.08.2018. The petitioner made a representation to the 1st respondent on 08.09.2020 to remove his name from the history sheet of the 3rd respondent police, but the same was not considered. Therefore, the petitioner has filed W.P(MD) No.12212/2020 and this Court by order dated 21.09.2020, directed the 3rd respondent to consider the request of the petitioner, but the 3rd respondent has passed the order mechanically by extending the period of history sheet for another two years by assigning unsustainable reasons. Hence, this writ petition.

3.The learned Government Advocate (Crl.Side) on instructions would state that the petitioner had not been living in the address and since a criminal case is pending against the petitioner, the period of history sheet is extended by the impugned order.

4.Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl.Side) for the respondents.

5.Perusal of the impugned order shows that while passing the impugned order, the respondents have not followed the Police Standing Orders.

6.Police Standing Order No.749 reads as follows:-

'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 Superintendent of Police/Deputy Superintendent of Police.'

7.From the above, it is very clear that the extension order can be passed only by the Superintendent of Police or the Deputy Superintendent of Police. Here, the 3rd respondent who is the Inspector of Police has passed the impugned order of extension and therefore, I am inclined to interfere with the impugned order.

8.Accordingly, the impugned order dated 03.11.2020 passed by the 3rd respondent is set aside and the matter is remanded to the respondents and they shall consider the representation of the petitioner in the light of the Police Standing Orders and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.



9. With the above direction, the writ petition is disposed of.
No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (AD II)

/ /2020

Sub Assistant Registrar (CS)

bala/das

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,
Virudhunagar District,
Virudhunagar.

2) The Deputy Superintendent of Police,
O/o. of the Deputy Superintendent of Police,
Srivilliputhur,
Virudhunagar District.

3) The Inspector of Police,
Watrap Police Station,
Virudhunagar District.

ORDER MADE IN
W.P (MD) No.16476 of 2020
DATED : 30.11.2020

NA (CO)
KM (14.12.2020) 3P 4C