

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

W.P.No.8743 of 2021

R.Raja

...Petitioner

Vs.

1. The Superintendent of Police,
Thanjavur,
Thanjavur District.
2. The Deputy Superintendent of Police
Papanasam,
Papanasam Taluk,
Thanjavur District.
3. The Inspector of Police,
Valangaiman Police Station,
Valangaiman,
Thiruvavur District.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to remove the name of the petitioner from the Rowdy list and to forbear from surveillance of the person and house of the petitioner by considering the representation dated 20.03.2021.

For Petitioner : Mr.K. Prabhakaran

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

The prayer sought for in the present writ petition is to direct the respondents to delete the petitioner's name in the history sheet maintained in the third respondent Police Station.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a farmer, due to the property dispute and also out of political enmity, the 3rd respondent police had registered in C.C.No.581 of 1995, C.C.No.579 of 2002 and C.C.No.739 of 2008 were filed against the petitioner for the offences 323 and 506(ii) of IPC arrayed as one of the accused. During the pendency of the said case, the second respondent

police was enlisted as a History Sheeter in the list of rowdies maintained by the 3rd respondent police, the second respondent police would forcibly taken him to the police station and had foisted cases under Article 14, 19 and 21 of the Constitution of India and under Section 75 of City Police Act for a history sheeter. In 2015, the respondent police had falsely implicated him in C.C.No.581 of 1995, C.C.No.579 of 2002 and C.C.No.739 of 2008 the charge sheet is yet to be filed in the said crimes. Thereafter, the petitioner filed W.P.No.1542 of 2016 before this Court and the same was disposed of by order dated 19.01.2016 directing the respondent authorities to consider the petitioner's representation dated 18.04.2016, 19.07.2017 and 30.10.2018. On 07.03.2021, while he was sleeping, the 3rd respondent police had forcibly entered his residence and requested him to come to the police station immediately, failing which dire consequences would be faced. Therefore, the petitioner was given a detailed representation dated 20.03.2021 to the respondents to consider his removal from the history sheet, there was no steps taken by the respondent police so far. Hence, in order to wreck vengences, plenty of criminal cases have been foisted as against the petitioner. 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 3rd respondent police station and the petitioner was compelled to attend the police station under the pretext of enquiry in a routine manner. In this regard, the petitioner had already made several representations to delete the History Sheet, but the respondents have not yet considered 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 indulging in rowdy activities, extortion, katta panchayats, etc. Hence, History Sheeted Rowdy Book was opened at the 3rd 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 writ petition.

4. Heard K.Prabhakaran, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents.

5. The issue involved in this writ 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 History 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 cities 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 third 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 first respondent is directed to remove the name of the petitioner from the history sheet maintained by the third respondent Police Station.

7. With the above directions, the writ petition is disposed of. No costs.

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

msm
To

1. The Superintendent of Police,
Thanjavur, Thanjavur District.
 2. The Deputy Superintendent of Police
Papanasam, Papanasam Taluk,
Thanjavur District.
 3. The Inspector of Police,
Valangaiman Police Station,
Valangaiman, Thiruvarur District.
 4. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.R. Rajarajan, Advocate sr 23561.

W.P.No.8743 of 2021

SMI (CO)
SP(06/07/2021)

सत्यमेव जयते

WEB COPY