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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P. No. 11847 of 2021

Murugaiyan

... Petitioner

Versus

1.The Superintendent of Police
Cuddalore District
Cuddalore.

2.The Inspector of Police
Annamalai Nagar Police Station
Annamalai Nagar
Cuddalore District

... Respondents

Writ Petition filed under Section 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the first respondent to remove the name of the petitioner from the History Sheet No.413 of 2014 on the file of the Inspector of Police, Annamalai Nagar Police Station, the second respondent herein, by considering the representation of the petitioner dated 03.05.2021 on the file of the first respondent herein.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.A.Damodaran,
Government Advocate

ORDER

This writ petition has been filed to remove the name of the petitioner from the history sheet No.413 of 2014 on the file of the Inspector of Police, Annamalai Nagar Police Station, the second respondent herein by considering the petitioner's representation dated 03.05.2021 on the file of the first respondent herein.

2.The contention of the petitioner is that the petitioner is working as Assistant Professor in Annamalai University, Chidambaram, Cuddalore District. He was falsely implicated in a criminal case in the year 2015, hence, he was terminated from



his service by his employer. The second respondent has opened a history sheet No. 413 of 2014 and it is still kept pending upto this year, without any material or reason due to which the petitioner is unable to lead his normal life. The petitioner was projected as a history sheeteer and his name is retained in the records maintained by the second respondent even after two years from 2014 without any justification and no orders have been passed to remove his name from the history sheet. The petitioner had sent an explanatory representation on 03.05.2021 to the first respondent seeking removal of his name from the history sheet and as to how he was falsely implicated in the case due to branding him as a history sheeteer. It was also stated in the representation that the petitioner is unable to carry on his avocation and to lead a normal life as the retention of his name in the history sheet causes a stigma. Hence, has has filed this writ petition.

3.The learned Government Advocate appearing for the respondents filed a counter on behalf of the second respondent stating that the petitioner is a habitual offender and therefore, his name was included in history sheet No. 413 of 2014 on 17.11.2014. Further, he submitted that the petitioner involve d himself in two criminal cases namely:

(i) Crime No. 125 of 2014 on the file of Annamalai Nagar Police Station for the offences under Sections 147, 148, 212, 150 of IPC read with 120-B, 149 of IPC, Section 5 (i), 4 (b) (i) of Indian Arms Act, Section 321, 25 (1B-A) of Indian Arms Act and Section 40 of the Public Property Damages Act and

(ii) Crime No. 243 of 2014 on the file of Annamalai Nagar Police Station for the offences punishable under Sections 147, 148, 324, 307, 302, 120B and 149 of IPC, Section 3 (1) of Public Property Damages Act, Section 3, 4 (a) of IES Act, Section 3 (1) (r), 3 (1) (S), 3 (2) (r) and 3 (2) (va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

Further, it is submitted that both the cases are at the trial stage. As per the Police Standing Order, the respondents continuously monitor the regular activities of the petitioner and submit a report to the first respondent. The continuation and retention of the petitioner's name in the history sheet is necessary to continuously monitor the regular activities of the petitioner so as to deter the petitioner from indulging in any other adverse activities.

4.Considering the rival submissions, this Court perused the materials. It is seen that the petitioner's name was included in the history sheet maintained by the second respondent in history sheet No. 413 of 2014 dated 17.11.2014 on the ground that the petitioner involved in two cases registered on the file



of second respondent police. As per Police Standing Order 749, the activities of a rowdy, whose name is included in the history sheet, will be consistently monitored by conducting a discreet enquiry. However, such detention should be only for a specified period and during that period the person who was included as a history sheetee should not indulge in any other adverse activities and should not aid or abet in the commission of any other offence. In such event, if the authorities have reason to believe that the history sheetee did not indulge in any such offences, they are empowered to remove his name from the history sheet. The discretion of the concerned police officer is in-built subject to limitation, including the specific period provided and the name of a history sheetee will be retained in the history sheet provided his activities are required to be monitored regularly. As per Police Standing Order 748 (2), history sheet will be opened initially for a period of two years. Where retention of history sheet is considered necessary after two years of registration, orders of an officer above the rank of Assistant Superintendent of Police must be taken for extension in the first instance upto the end of the next December and further annual extension from January to December. In this case, History Sheet No. 413 of 2014 was opened against the petitioner on 17.11.2014 and after two years, no extension or requisition was made for retention of the name of the petitioner from the Assistant Superintendent of Police/ Deputy Superintendent of Police.

5. The petitioner sent a representation to the Superintendent of Police/ first respondent on 03.05.2021. The first respondent has neither made any objection to the representation nor passed any order to continue the name of the petitioner in the history sheet. This Court, in the decision reported in (K.M. Sheriff vs. Superintendent of Police, Pudukottai reported in 2006 (2) MWN (Cr1) 421 had clearly held that in the absence of any order for extension, as required under Police Standing Order 748 (2), a history sheet cannot be allowed to be continued (forever). Further, this Court had issued direction to the Director General of Police, Government of Tamil Nadu to issue necessary instructions by way of Circular to the Divisional Police Officer. Despite the same, there seems to be no change in the approach of the respondents in following the guidelines issued by this Court. Further, this Court in the order dated 26.09.2018 passed in WP (MD) Nos. 19651 of 2017 etc., batch passed a detailed order as follows:-

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



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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 Station 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



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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 upon 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 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 No.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 No.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.

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j.Branding a person as a history sheeted rowdy, taints the name and image of the persons. 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 judgements 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."

6. In view of the same, the writ petition is allowed. The respondents are directed to remove the name of the petitioner from the history sheet No. 413 of 2014 on the file of the second respondent/Inspector of Police, Annamalai Nagar Police Station, Cuddalore District. No costs.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar



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To

- 1.The Superintendent of Police,
Cuddalore District,
Cuddalore.
- 2.The Inspector of Police,
Annamalai Nagar Police Station,
Annamalai Nagar,
Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.

WP No. 11847 of 2021

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srg 23/07/2021