



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 20.04.2021

DELIVERED ON : 21.05.2021
CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.ILANGO VAN

WP(MD)No.7607 of 2021 &
WMP(MD)No.5765 of 2021

P.Easwaran

... Petitioner

Versus

1.The Deputy Superintendent of Police,
Panagudi Division, Valliyur,
Thirunelveli District.

2.The Inspector of Police,
Panagudi Police Station,
Panagudi, Thirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records relating to the impugned order passed by the first respondent in HS.No.68 of 2014 dated 04.04.2014 and quash the same and consequently, direct the first respondent to close the History Sheet.

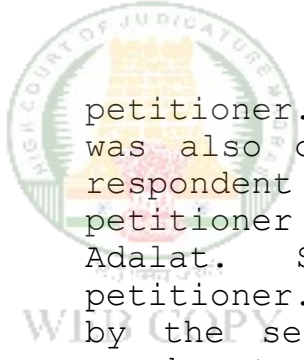
For Petitioner : Mr.M.Gurudas

For Respondents : Mr.R.Srinivasan,
Government Advocate (Crl. Side)

O R D E R

This petition is filed seeking an order of certiorarified mandamus calling for the records relating to HS.No.68 of 2014 dated 04.04.2014 and quash the same.

2. The facts in brief. The petitioner was facing a charge in Crime No.161 of 2014 for the offence punishable under Section 387 of IPC, which was tried by the learned Judicial Magistrate, Valliyur and the petitioner was acquitted from all the charges by an order of the learned Judicial Magistrate in CC.No.29 of 2015 dated 06.11.2015. Subsequently, two more cases were foisted upon the petitioner in Crime Nos.128 of 2011 and 242 of 2011 for the offences under Sections 379 of IPC and 4(1)(ii)(1-A) read with Section 21 of Mines and Minerals Development and Regulation Act respectively. Based upon this, a request was made by the second respondent to the first respondent for opening a History Sheet against this



petitioner. Without conducting any proper enquiry, History Sheet was also ordered to be opened in HS.No.68 of 2014 by the first respondent herein. Out of the three cases, in one case, the petitioner was acquitted and two other cases were closed before Lok Adalat. So as on date, no case is pending in respect of this petitioner. In spite of that, HS.No.68 of 2014 has not been closed by the second respondent. So, this petition is filed seeking quashment of the impugned order passed by the first respondent in HS.No.68 of 2014.

3. Heard both sides.

4. It is not in dispute that the petitioner was facing two criminal cases in Crime Nos.128 of 2011 and 242 of 2011 for the offences under Sections 379 of IPC and 4(1)(ii)(1-A) read with Section 21 of Mines and Minerals Development and Regulation Act respectively. Subsequent to that, he was also facing a charge in CC.No.29 of 2015 for Crime No.161 of 2014 for the offence punishable under Section 387 of IPC, wherein, the petitioner was acquitted by the learned Judicial Magistrate, Valliyur by Judgment dated 06.11.2015. Now, according to this petitioner, no case is pending against him as on date, since other two cases ended in closure due to the settlement in Lok Adalat.

5. However, the cases in Crime Nos.128 of 2011 and 242 of 2011 under Sections 379 of IPC and 4(1)(ii)(1-A) read with Section 21 of Mines and Minerals Development and Regulation Act cannot be settled in Lok Adalat. It is seen that the above said two cases were registered in the year 2011. The effect of those two cases are not known.

6. When the matter came up for hearing, the learned Government Advocate sought time to verify whether any case is pending against this petitioner or not. But later it was informed that no other cases are pending against this petitioner. Moreover, the process prescribed to be adopted by the Police Officer to open and maintain the History Sheet has been elaborately discussed in the batch of Writ Petitions and Criminal Original Petitions in **Sabari @ Sabarigiri Vs. Assistant Commissioner of Police, Annanagar (L&O) Range, Madurai City, Madurai and Others** reported in **2018 4 MLJ (Cr1) 585**, wherein this Court, after considering various Judgment of this Court in much detailed manner has issued a series of guidelines to be followed by the authorities before and after opening the History Sheet in Paragraph number 7 of the Judgment. The relevant portion is extracted hereunder:

" 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

crim services, 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 subcategorization 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 ML J 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."

7. So, when we approach this case from the guidelines imposed or issued by this Court, it is seen that the first respondent has not followed the proper procedure and there is no evidence on record to show that subsequent to 2014, the History Sheet was renewed or not. It has to be renewed once in a year as per the procedure. So, the History Sheet opened in the year 2014 cannot be kept pending without any renewal. There is no evidence on record to show that the second respondent has requested the concerned Officer for renewing the History Sheet. In the absence of any such materials, continuing the History Sheet, which is pending from the year 2014 without proper renewal, is improper and illegal. So, on that ground, HS.No.68 of 2014 opened on 04.04.2014 is liable to be quashed and accordingly quashed.

8. In view of the same, this writ petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1.The Deputy Superintendent of Police,
Panagudi Division, Valliyur,
Thirunelveli District.

2.The Inspector of Police,
Panagudi Police Station,
Panagudi, Thirunelveli District.

Order in
WP (MD) No. 7607 of 2021 &
WMP (MD) No. 5765 of 2021

21.05.2021

CN(16.06.2021) 6P 3C