



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 31.03.2021

DATE ON WHICH PRONOUNCED: 23.04.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P. (MD)No.20572 of 2017

Ahamed al ameen

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by the
Home Secretary, Fort St. George,
Chennai - 9.
- 2.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 3.The Deputy Superintendent of Police,
Tiruchendur,
Thoothukudi District.
- 4.The Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a **Writ of Mandamus**, directing the 2nd Respondent to remove the petitioner's name from the history sheet in H.S.No.237 / 2007, on the file of the 4th Respondent in accordance with the provision of Police Standing Order.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.M.Ganesan

Government Advocate (Crl.Side)

O R D E R

The Writ Petition has been filed to direct the 2nd Respondent to remove the petitioner's name from the history sheet in H.S.No.237 / 2007 on the file of the 4th Respondent in accordance with the provision of Police Standing Order.

2. The case of the petitioner is that the petitioner belongs to an economically and socially weaker section and involved in protection and safeguarding of Human rights of socially weaker section for more than 9 years in that area.

3. Now, he is the Secretary of the organization of



'viduthalai siruthaikal katchi' and he is also fighting for the class of poor people.

4. He was falsely implicated by the fourth respondent in a case and so, history sheet was opened in 237 / 2007 and a case was registered in Crime No.351 of 2007 for the offences punishable under Sections 341, 385, 506 (ii) of IPC and another case was registered in Crime No.94 of 2002 for the offences punishable under Sections 148, 147, 149, 212, 224, 225, 342, 353, 307, 506 (ii) of IPC r/w 25 (1) (a) of Arms Act and 3 of TNPPDL Act. He was punished and later, the punishment was modified for two years in Crime No.94 of 2002 in C.A.No.67 of 2007. Thereafter, the fourth respondent started surveillance against the petitioner. After the year of 2002, he was not involved in any other cases and he is leading his life in a peaceful manner. The respondent has not conducted proper enquiry, as per the Police Standing Order and for the purpose of maintaining the History Sheet, due to political motive, History Sheet was opened. The Police people have repeatedly visited the house of the petitioner, even during the night hours. So, he sent a representation on 06.11.2007. But, that was not considered. Seeking the writ of mandamus, this petition is filed.

5. Heard both sides.

6. According to the learned counsel for the petitioner, even though he was involved in the cases in Crime No.94 of 2002 and Crime No.351 of 2007, after 2007, he was not involved in any other criminal cases and now, he is leading a peaceful life. History Sheet was opened in the year 2007 and renewed periodically. So, as per the Police Standing Order as well as a direction issued by this Court, in the batch of Writ Petitions and Criminal Original Petitions in **Sabari @ Sabarigiri and Others Vs. The Superintendent of Police, Kanyakumari District and Others** has elaborately discussed the procedure to be followed by the authorities. This Court, on the basis of the judgment reported in **Ganesan Vs. The District Superintendent of Police, Virudhunagar District, Virudhunagar 2010 (6) CTC 507**, which considered the entire case in much detailed manner has issued a series of guidelines to be followed by the authorities before and after opening the History Sheet. Paragraph number 7 has discussed the guidelines in this regard.

" 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 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 MANU/TN/2060/2013 : (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 sheetee."

8. According to the learned Government Advocate (Crl.Side), the petitioner is continuously involving in Crime and he is a Habitual Offender and he has closely associated with one Imam Ali, who was involved in many cases on religious issues. So, because of his involvement, in the Imam Ali Team, the Police surveillance is very much necessary and no case has been made out for removing his name from the History Sheet. In the counter, a detailed account with regard to the role played by this petitioner, during the Imam Ali episode has been narrated. It has also been mentioned that the History Sheet was extended upto 31.12.2018. Whether it was renewed or not is not clear on record. So, the case was reopened for clarification from the parties.

9. According to the learned counsel for the petitioner, even though, the History Sheet got expired on 31.12.2018, still the Police are making surveillance and harassing him stating that History Sheet is now extended.

10. But, according to the learned Government Advocate (Crl.Side), whether it was extended to till date or not, could not to be ascertained. As per Police Standing Order 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. Similarly, for annual extension from January to December, separate orders must be passed every time by the officer of and above the rank of Assistant Superintendent of Police / Deputy Superintendent of Police.

11. It has been observed in the guidelines that for the purpose of passing the order, valid materials must be available on record. The Officer, must record the reasons based upon both objective and subjective satisfaction. Moreover, in **Manivanan Vs. State represented by the District Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501**, a direction was issued to the Director General of Police to issue necessary instructions / guidelines / circulars with regard to the manner in which, it has to maintain an extension order, must be maintained.



12. So, in the light of the above said guidelines, when we approach the facts of the case, it is clear that the respondent police is not in a position to inform the Court with regard to the materials available in extending the History Sheet. As mentioned earlier, they are not also clear whether it was extended after 2018. In the absence of any such clear instruction and record, it appears to have been lapsed on the 31st day of December 2018. Thereafter, no extension order has been passed. In such circumstances, I am of the considered view that the petitioner has got valid case.

13. Moreover, from the counter filed by the respondent, it is seen that the main allegation against the petitioner is that he was closely involved with Imam Ali and was also giving protection to him. But, now, the Imam Ali Saga is over and more than 10 years lapsed. It is also seen that the petitioner is now settled and running a peaceful life and became functionary in a political party. It is also seen that he is not involved in any other criminal case after 2007. So, almost 14 years have lapsed. So, it is highly unbelievable that he is still carrying the legacy of criminality left by the deceased Imam Ali. Criminal jurisprudence is aimed at reforming an offender. So, when we look at the case, as mentioned earlier, he is not having any case for the passed 14 years of serious heinous nature. So, continuing the History Sheet will amount to abusing the process of law. So, this petition is liable to be allowed and accordingly, the same is allowed.

14. The second respondent herein, is directed to remove the name of the petitioner from the record of History Sheet on the file of the fourth respondent within a month from the date of receipt of a copy of this order. So, with this direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

dss

TO

1. The Home Secretary,
The Government of Tamil Nadu,
Fort St. George,
Chennai - 9.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Superintendent of Police,
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