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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.1544 of 2022

Abdul Jaleel

..Petitioner

Versus

1. The Commissioner of Police,
Coimbatore City, Coimbatore.
2. The Deputy Superintendent of Police,
Law and Order, Coimbatore.
3. The Assistant Commissioner of Police (South)
Law and Order, Coimbatore.
4. The Inspector of Police,
Law and Order,
B-4, Ukkadam Police Station
Coimbatore.

...Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records relating to the Impugned Closure report dated 27.12.2021 of the 4th Respondent and quash the same as illegal and without Jurisdiction and consequently direct the respondents to remove the petitioner's name from History Sheet opened in History Sheet No.14 of 1999 on the file of the 4th Respondent by considering the representation dated 29.09.2021 and 14.12.2021 of the petitioner within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.K.Nizamuddin

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Writ Petition is filed to call for the records relating to the Impugned Closure report dated 27.12.2021 of the 4th Respondent and quash the same as illegal and without Jurisdiction and consequently direct the respondents to remove



the petitioner's name from History Sheet opened in History Sheet No.14 of 1999 on the file of the 4th Respondent, by considering his representations dated 29.09.2021 and 14.12.2021 of the petitioner within a time frame to be fixed by this Court.

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2.The contention of the petitioner is that the petitioner is residing in the above address along with his old aged mother, wife and three children. While so, the petitioner was arrayed as an accused in F.I.R.Cr.No.1163 of 1999 for the offence under Section 4(b) of Explosive Substances Act on the file of the B-1, Bazaar Police Station, Coimbatore. Later, an History sheet, vide No.14 of 1999 came to be opened in the petitioner's name at his age of 17 years to check his activities and keep him on surveillance, on the ground of pendency of the above said criminal case and the said history sheet is presently maintaining by the B-4, Ukkadam Police Station, Coimbatore, who is the fourth respondent herein. A charge sheet came to be filed in the above said F.I.R and after facing trial in criminal proceeding, the petitioner was convicted by the Sessions Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai and released, after completing his sentence in the year 2006. Thereafter, an F.I.R.in Cr.No.203 of 2010 was foisted against the petitioner before the fourth respondent and the same was numbered as C.C.No.153 of 2010 and cognizance was taken for the offence under Sections 143 and 341 of I.P.C by the Judicial Magistrate Court-V, Coimbatore.

3.While that being so, the petitioner has preferred a Criminal Original Petition before this Court in Crl.O.P.No.8121 of 2019 seeking to quash the above C.C.No.153 of 2010 pending on the file of the Judicial Magistrate Court-V, Coimbatore and this Court, by its order dated 27.03.2019, granted an order of interim stay of all further proceedings and dispensed with the personal appearance of the petitioner in the above said Court. Hence, the petitioner made representations dated 29.10.2021 to the respondents seeking removal of the petitioner's name from the history sheet. In the meanwhile, the petitioner received a communication dated 11.10.2021 from the 4th respondent to appear on 30.01.2021 and the same was complied by the petitioner. Subsequently, the petitioner received a Impugned Closure Report dated 27.12.2021 from the 4th respondent, rejecting the petitioner's representations dated 29.10.2021 and 14.12.2021 for the reason that the petitioner was convicted accused and that there is a possibility of joining the terrorist movement and also a criminal proceeding is pending against the petitioner on the file of the 4th respondent. According to the petitioner, the petitioner is facing trial in Crime No.203 of 2010 for the offence under Section 143, 295(A) and 341 of I.P.C and no criminal proceedings are pending against the petitioner since the year 2010. When that being so, the fourth respondent has



continued to keep the petitioner's name in the rowdy list and further keeping him under the surveillance for more than 22 years with an assumption that he would join the terrorist movement, which affects his reputation in the society. Hence, the petitioner has filed this Writ Petition, challenging the said Impugned Closure Report dated 27.12.2021 and seeking a direction to the respondent to remove the petitioner's name in History Sheet No.14 of 1999 on the file of the fourth respondent, based on his representations dated 29.09.2021 and 14.12.2021.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. The learned counsel for the petitioner submitted that Impugned Closure Report dated 27.12.2021 of the 4th respondent is illegal and without jurisdiction and the same is in violation of PSO 748, where only an Officer of and above the rank of Assistant Superintendent of Police/ Deputy Superintendent of Police has the authority for retention of History Sheet. As such, the 4th respondent, who is the Inspector of Police, has no powers to retain the petitioner's name in the History Sheet. The above conduct of the 4th respondent in retaining the petitioner's name in the rowdy list on the mere assumption of joining the terrorist movement and long pending trial against the petitioner in C.C.No.153 of 2010 pending before the trial Court, is clear in violation to PSO 747 and 748, whereas under PSO 747, it is clearly stated that a person convicted for the offences listed under PSO 747, can be retained for a period of two years after his/her from jail and as per PSO 748(1) that a history sheet cannot be retained mere pendency of trial, where the case is pending trial beyond two years as provided.

6. The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioner is a History Sheeted rowdy in H.S.No.14 of 1999. A Criminal Case is pending in C.C.No.153 of 2010 on the file of the Judicial Magistrate Court-V, Coimbatore. Further, it is submitted that the case is 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.

7. 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



H.S.No.14 of 1999 on the ground that the petitioner involved in Explosive Substances Act case. As per Police Standing Order 749, the activities of a rowdy, whose name is included in the history sheet, will be constantly monitored by conducting discreet enquiry. However, retention of name in history sheet only for a specified period, during this period the person whose name included in history sheet should not indulge in any other adverse activities and not to aid or abet any commission of offence. In such event, if the authorities have good reasons to believe that the history sheetee not indulged 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 name for a specific period. History Sheetee 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, officer above the rank of Assistant Superintendent of Police to give extension order in the first instance upto the end of the next December and further annual extension from January to December by the Superintendent of Police. In this case, History Sheet No. 14 of 1999 was opened against the petitioner in the year 1999, 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.

8. In view of the above, the name of the petitioner in the History Sheet from 1999 on the file of the 4th respondent Police is wholly unwarranted.

9. In the result, this Writ Petition is allowed and as a sequel, the Impugned Closure report of the 4th Respondent dated 27.12.2021 is quashed and the 4th respondent Police is directed to remove the name of the petitioner from the History Sheet No.14 of 1999. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Commissioner of Police,
Coimbatore City, Coimbatore.



2. The Deputy Superintendent of Police,
Law and Order, Coimbatore.
3. The Assistant Commissioner of Police (South)
Law and Order, Coimbatore.
4. The Inspector of Police,
Law and Order,
B-4, Ukkadam Police Station
Coimbatore.
5. The Public Prosecutor,
High Court, Madras.

Copy To

The Judicial Magistrate Court V
Coimbatore.

+1cc to M/s.R.Nizamuddin, Advocate, S.R.No.6951

W.P.No.1544 of 2022

PMK (CO)
RGA (16/02/2022)