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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.5481 of 2022

T.S.Pasupathi,
S/o.Thangavelamy

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by the Chief Secretary to Government,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Office of the Chennai City Police Commissionerate,
Vepery, Chennai - 600 007.

3.The Inspector of Police,
Law and Order,
R-5, Virugambakkam Police Station,
Virugambakkam, Chennai - 600 092.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to dispose the petitioner's representation dated 29.09.2021.

For Petitioner : Mr.L.Rajasekar

For Respondents: Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents to dispose the petitioner's representation dated 29.09.2021.

2. The learned counsel for the petitioner would submit that the petitioner was doing business in the name and style of



M/s.Vivek Furnitures, having shop at No.1, Yadaval 2nd Street, Virugambakkam, Chennai - 600 092. The petitioner used to hire out chairs, utensils and lights for various occasions to the customers. Since the petitioner was also holding various posts in political party and due to political vengeance the third respondent has foisted a false case against the petitioner, based on the case pending against the petitioner, the third respondent has opened history sheet already vide History Sheet No.78 of 1989. The petitioner's name is appearing in the rowdy list of the third respondent station and the petitioner has sent representation dated 29.09.2021 to the first respondent, seeking to remove his name from the rowdy list (History sheet). However, no action has been taken, the petitioner has filed this petition.

3. The learned counsel would also submit that the respondent police had harassed the petitioner and on the pretext that his name appears in the History Sheet Vide No.78 of 1989. 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 Sheet Rowdy Book was opened at the third respondent police station and the petitioner was compelled to attend the police station in the pretext of enquiry in a routine manner. In this regard, the petitioner had already made a representation on 29.09.2021 to delete the name in the History Sheet, but the respondents have not yet considered till date. Therefore, he sought for allowing the writ petition.

4. 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 Sheet Rowdy Book was opened at the third 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.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

6. 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. 66569/Crime 3(2)/2019 dated 24.04.2019, which reads as follows :-



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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



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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 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 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



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Standing Orders and the judgments of this Court,

while retaining the name of a person as a history sheeter, beyond the stipulated period.

7. 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 first respondent is directed to consider the petitioner's representation, dated 29.09.2021 and pass orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this Order.

8. With the above directions, the writ petition stands disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dsn/arb

To

1.The Chief Secretary to Government,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Office of the Chennai City Police Commissionerate,
Vepery, Chennai - 600 007.

3.The Inspector of Police,
Law and Order,
R-5, Virugambakkam Police Station,
Virugambakkam, Chennai - 600 092.

4.The Public Prosecutor,
High Court of Madras.



Copy to

The Director General of Police,
Chennai.

+1cc to M/s.L.Rajasekar, Advocate Sr.16516

W.P.No.5481 of 2022

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srg 31/03/2022