



W.P.(MD)No.2524 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.10.2022

PRONOUNCED ON : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P.(MD)No.2524 of 2021

Muniyaraj

... Petitioner

Vs.

1.The District Superintendent of Police,
Thoothukudi District,Thoothukudi.

2.The Deputy Superintendent of Police,
Kovilapatti Sub-Division,
Kovilapatti, Thoothukudi District.

3.The Inspector of Police,
West Police Station, Kovilpatti,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.KA.No.C2/37589/2020, dated 04.01.2021 passed by the first Respondent to quash the same and consequently, to direct the Respondents to remove the Petitioner's name in the history sheet in H.S.No.178 of 2018 on the file of the third Respondent.

For Petitioner :Mr.G.Karuppasamy Pandian

For Respondents :Mr.B.Nambi Selvan

Additional Public Prosecutor



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ORDER

This Writ Petition has been filed challenging the impugned order, dated 04.01.2021 passed by the first Respondent and consequently, to direct the Respondents to remove the Petitioner's name in the history sheet in H.S.No.178 of 2018 on the file of the third Respondent.

2.Heard the learned Counsel for the Petitioner and the learned Additional Public Prosecutor appearing for the Respondents.

3.The learned Counsel for the Petitioner submitted that the Petitioner had studied Master of Science in International Business and Management at Bedfordshire University in London, England and now undergoing Law course at Government Law College, Tirunelveli. The Petitioner and his brother, namely, Sangili Pandian were engaged in finance business, which is registered as No.1 of 2018, dated 02.01.2018 before the Registrar of Firms, Palayamkottai in the name and style of "Raj Londin Finance", Kovilpatti. Earlier, the Petitioner had filed W.P.(MD)No.16156 of 2020 seeking to remove his name from the history sheet, based on his representation, dated 14.10.2019. This Court, by order, dated 18.11.2020, directed the first Respondent to consider the representation of the Petitioner within a period of four weeks from the



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date of receipt of a copy of that order. It is further submitted by the learned Counsel for the Petitioner that the first Respondent had issued the impugned order, wherein, it is stated that on secrete enquiry, the Respondents came to know that cases have been pending against the Petitioner and therefore, the Petitioner may endanger to others. Therefore, maintenance of history sheet is necessary. Therefore, the Petitioner had approached this Court challenging the impugned order as arbitrary and illegal.

4.The learned Counsel for the Petitioner further submitted that three cases were pending against the Petitioner, (1)Cr.No.557 of 2017 under Sections 294(b), 363, 506(2) IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act; (2) Cr.No.77 of 2018 under Sections 342, 294(b), 307 and 506(2) IPC; and Cr.No.177 of 2018 under Section 294(b), 323, 324 and 506(2) of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 2002. The first case had been referred as mistake of fact. The second and third cases have been quashed by this Court on amicable settlement between the parties, by virtue of orders passed by this Court in CrI.O.P.(MD)Nos.11507 of 2018 and CrI.O.P.(MD)No.11516 of 2018.



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5.The learned Counsel for the Petitioner submitted that as on the date of filing of this Petition, no case had been pending against the Petitioner. That being the situation, the first Respondent mentioned the above cases as pending cases and had passed the impugned order. He further submitted that maintaining the history sheet against the Petitioner in the absence of any new cases is a violation of fundamental rights constitutionally guaranteed under Article 21 of Constitution of India.

6.The learned Counsel for the Petitioner relied on the reported ruling of this Court in ***Thirumurugan and another vs Superintendent of Police and others*** reported in ***(2020) 4 MLJ (Crl) 133***, wherein, this Court has held that as per the Police Standing Order, retaining history sheet beyond that period is exception and it must have objective basis and the history sheet could not be retained on the ground that investigation agency had not filed final report, or where case was pending trial beyond two years time and not to retain unless fresh was case registered. This Court further held that where no subsequent case was registered, former convict should not be treated as suspect and the cases, where investigation had dropped or where FIR closed by Court or where history sheet had been discharged or acquitted by the competent Court and/or quashed by the Court shall not be included;



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where cases were registered in connection with citizen participating in peaceful process, agitations, or demonstrations or the like, history sheet should not be opened unless order was passed by Executive Magistrate. In the light of the above, the learned Counsel for the Petitioner seeks to quash the impugned order.

7.The learned Additional Public Prosecutor vehemently objected to the line of arguments of the learned Counsel for the Petitioner stating that cases are pending against the Petitioner. He also furnished the copy of the proceedings of the Superintendent of Police, regarding antecedents of the Petitioner and submitted that it is also informed to the Petitioner.

8.On perusal of the ruling cited by the learned Counsel for the Petitioner in ***Thirumurugan and another vs Superintendent of Police and others*** reported in ***(2020) 4 MLJ (Crl) 133***, it is noted that except the cases registered in the year 2018, which were also quashed by this Court, no fresh case had been registered against the Petitioner. Therefore, the contention of the learned Additional Public Prosecutor that fresh case had been registered against the Petitioner and that history sheet is maintained is not found reasonable. Therefore, the same is rejected.



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In the light of the above, this Petition is allowed and the impugned order, dated 04.01.2021 is quashed. The Respondents are directed to remove the Petitioner's name in the history sheet in H.S.No.178 of 2018 on the file of the third Respondent. No costs.

25.11.2022

Index : Yes / No

cmr

To

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