



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 07.02.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.2429 of 2022

and

W.M.P(MD)Nos.2105 & 2106 of 2022

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1.C.Sujinraja

2.C.Jeyasurya

... Petitioners

Vs

1.The Commissioner of Police,
Tirunelveli District,
Tirunelveli.

2.The Deputy Commissioner of Police,
O/o.The Deputy Commissioner of Police,
Tirunelveli City.

3.The Inspector of Police,
Tirunelveli Town Police Station,
Tirunelveli 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 pertaining to the impugned order in Na.Ka.No.G5/20875/2021, dated 10.11.2021 on the file of the first respondent and quash the same as illegal and consequently directing the respondents to remove the petitioners' name from the History Sheet maintaining in File Nos.213 of 2021 and 214 of 2021 respectively on the file of the third respondent within a time frame.

For Petitioners : Mr.T.Thirumurugan

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent, dated 10.11.2021 and consequently directing the respondents to remove the petitioners' name from the History Sheet maintaining in File Nos.213 of 2021 and 214 of 2021 respectively on the file of the third respondent within a time frame.



2. The learned counsel appearing for the petitioners would submit that the petitioners built a Temple in their own property. One Perumal Pallavarayar attempted to grab the property and caused disturbances to the petitioners. Hence, the petitioners filed a civil suit in O.S.No.228 of 2019 before the learned District Munsif Court, Tirunelveli and pending for adjudication. During the pendency of the civil suit, the said Perumal Pallavayar passed away and his son-Chandrasekar alone was conducting the case. While so, on 29.11.2010, the said Chandrasekar attacked the petitioners and threatened them with dire consequences. In the mean time, the third respondent registered FIR against the petitioners in Crime No.1298 of 2020, dated 29.11.2020 for the offences under Sections 147, 148, 294(b), 323, 307 and 506(ii) I.P.C., alleging that the petitioners attacked one Manoharan and others. Hence, the petitioners filed CrI.O.P(MD)Nos.4317 and 4375 of 2021 to quash the proceedings of the third respondent and obtained an order of interim stay and they have also filed a petition in CrI.O.P(MD)No4281 of 2021, not to harass them. Taking vengeance against the same, the third respondent filed two cases against the petitioners and created history sheet against the petitioners. The petitioners filed Writ Petitions in W.P(MD)Nos.17313 and 17314 of 2021 sought to remove their names from history sheet and this Court, by order dated 23.09.2021, directed the first respondent to consider the representation of the petitioners, dated 09.07.2021 within four weeks. Subsequently, on 10.11.2021, the first respondent has passed the impugned order by rejected the claim of the petitioners. Challenging the same, the petitioners have filed the present Writ Petition.

3. The learned Additional Public Prosecutor appearing for the respondents submitted that the criminal cases are pending against them and they are creating problems. Therefore, he prays to dismiss the writ petition.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

5. 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. 133410/Crime 4(3)/2018 dated 05.10.2018, which reads as follows :-

*The Hon'ble Madurai Bench of Madras High Court
in its order dated 26.09.2018, in a batch of cases,
in the reference second cited, while quashing the
History Sheet maintained in certain Police Stations*



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and which are challenged before the Hon'ble Court, has observed and directed as follows :-

"28..... there is a general pattern adopted trend by the Police to continue to retain the names of the persons in the history sheet showing them as rowdies without any justifiable reasons. The Police did not realise that the purpose of opening a history sheet is to keep surveillance and check on hardened and habitual criminals in order to maintain peace and tranquility in the society.

29.As mentioned above, it also becomes the duty of the Police to keep reviewing the history sheet regularly to ensure that the persons, who are no longer required to be retained in the list are removed from the list, since it involves the dignity and public image of a person

30.Whenever representations are made by the persons whose names are found in the history sheet, it is the duty of the respondent Police to consider the same It will be of no use for the respondent Police to keep the representation pending even without considering them and driving the concerned persons to file appropriate petition before this Court. This Court only hopes that the Police learns a lesson at least after the passing of this order, to be more sensitive and serious in maintaining history sheet.

31..... The Police seems to be adopting the practice of registering FIRs against the persons under Sections 109 and 110 of CrPC, just to open the history sheet and to justify the continuance of the name of the persons in the history sheet. automatic opening of history sheet can be done only if the person has been convicted more than twice under Section 109 of CrPC and more than once under Section 110 of CrPC. Therefore, mere registration of an FIR under Sections 109 and 110 of CrPC can never justify the action of the Police in continuing to retain the name of the person in the history sheet.

32.....

33.This Court wants to make it clear that



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in all future cases, where the retention of the name of a person in history sheet becomes a subject matter of challenge before this Court, if this Court finds that the name of the person has been retained without any justification and is in contravention with PSO Nos.746 to 748 and the guidelines given by this Court, compensation will be granted to the victims and the same will be directed to be recovered from the monthly salary of the Inspector of Police in whose station the history sheet is being maintained....."

2. Provisions contained in PSO 746 to 748 and the above orders of the Hon'ble High Court shall be followed scrupulously while maintaining the history sheets by the SHOs.

3. All Sub-Divisional Officers shall periodically review all History sheet files and Rowdy sheet files maintained in the Police Station under their jurisdiction.

4. IGPs in Zones, COPs in citities and the SPs in District shall sensitize all the Police personnel working under their jurisdiction in this regard and also review the cases periodically."

6. 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 impugned order passed by the first respondent, dated 10.11.2021, is set aside and the first respondent is directed to consider the petitioners' claim, in view of the Circular, dated 05.10.2018 and pass orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this Order.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

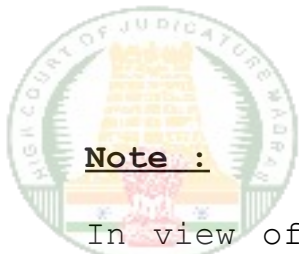
Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Commissioner of Police,
Tirunelveli,
Tirunelveli District.
- 2.The Deputy Commissioner of Police,
O/o.The Deputy Commissioner of Police,
Tirunelveli City.
- 3.The Inspector of Police,
Tirunelveli Town Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-5144[F] dated
09/02/2022)

Order made in
W.P (MD) No.2429 of 2022
07.02.2022

PK (CO)
TR(21.02.2022) 5P 6C