



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.02.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP (MD) . No.6491 of 2021

& WP (MD) No.5065 of 2021

T.Suresh Kumar

... Petitioner

Vs

1. The Superintendent of Police
Kanyakumari District

2. The Deputy Superintendent of Police
Thuckalay
Kanyakumari District

3. The Inspector of Police
Thuckalay Police Station
Kanyakumari District

4. The Sub-Inspector of Police
Kotticode Police Station
Kanniyakumari District

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of writ directing the respondents to remove the petitioner name in the history sheet maintained in the file of the 4th respondent, Sub-Inspector of Police, Kotticode police station in the interest of justice and as it involves dignity and public image of petitioner and his family guaranteed under article 21 of constitution of India, and in the light of this Hon'ble Court reported in 2018-2-law weekly criminal page 817, orders made in writ petition in WP(MD)No. 2104 of 2018, and consequentially drop all proceedings with regard to execution of bond for good behavior as if he was a habitual offender by invoking section 109 and 110 Cr.P.C.

For Petitioner : M/s.Deepak F

For Respondents : Mr.R.M.Anbunithi

No.1 to 4 Additional Public Prosecutor



O R D E R

This Writ Petition is filed to issue a Writ of Mandamus for directing the respondents to remove the petitioner name in the history sheet maintained in the file of the 4th respondent, Sub-Inspector of Police, Kotticode police station in the interest of justice and as it involves dignity and public image of petitioner and his family guaranteed under article 21 of constitution of India, and in the light of this Hon'ble Court reported in 2018-2-law weekly criminal page 817, orders made in writ petition in WP(MD)No. 2104 of 2018, and consequentially drop all proceedings with regard to execution of bond for good behavior as if he was a habitual offender by invoking section 109 and 110 Cr.P.C.

2.The learned counsel appearing for the petitioner would submit that due to previous enmity, a false case has been foisted against the petitioner. During that point of time, the respondent police opened History Sheet against the petitioner. 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 Sheeted Rowdy Book was opened at the fourth 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 several representations to delete the name in the History Sheet, but the respondents have not yet considered till date. Therefore, he sought for allowing this petition.

3.The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioner is a habitual offender indulging in rowdy activities, extortion, katta panchayats, etc. Hence, History Sheeted Rowdy Book was opened at the fourth 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 petition.

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

5.The issue involved in this 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.

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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 petitioner is directed to submit a fresh representation before the Deputy Superintendent of Police, Thuckalay, Kanyakumari District within a period of two weeks from the date of receipt of a copy of the Order.

(ii) On receipt of such representation, the Deputy Superintendent of Police, Thuckalay, Kanyakumari District is directed to consider the same and pass appropriate order on merits and in accordance with law within a period of six weeks therefrom.

7. With the above directions, the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



PNM

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 Superintendent of Police
Kanyakumari District
 2. The Deputy Superintendent of Police
Thuckalay
Kanyakumari District
 3. The Inspector of Police
Thuckalay Police Station
Kanyakumari District
 4. The Sub-Inspector of Police
Kotticode Police Station
Kanniyakumari District
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.F.DEEPAK, Advocate (SR-7961[F] dated 23/02/2022)

ORDER MADE IN
WP(MD) No.6491 of 2021
22/02/2022

PKP/03.03.2022/5P/7C