



WEB COPY



W.P.No.2739 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2739 of 2021
and W.M.P.Nos.3076 of 2021, 24771 of 2022 & 19016 of 2023

Sugumar

...Petitioner

-Vs-

1. The Assistant Commissioner of Police,
Kilpauk Range,
Kilpauk,
Chennai – 600 010.

2. The Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai – 600 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the first respondent dated 31.08.2020 and the consequential order in ref.c.No.73/AC/kil/camp/proc/2021, dated 31.12.2021 and the consequential order in ref.C.No.140/AC/kil/camp/proc/2022, dated 31.12.2022 on the file of the first respondent and quash the same and consequently direct the respondents to remove the name of the petitioner from the History Sheet. (*Prayer amended as per order dated 07.09.2023 made in W.M.P.No.19013 of 2023 in W.P.No.2739 of 2021*)



WEB COPY



W.P.No.2739 of 2021

For Petitioner : Mr.K.Balaji

For Respondents : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

The writ petition has been filed challenging the order of the first respondent dated 31.08.2020 and the consequential orders dated 31.12.2021 and 31.12.2022 and consequently direct the respondents to remove the name of the petitioner from the History Sheet.

2. The petitioner is an Advocate. So far, he involved in four cases as follows :-

(i) K6 T.P. Chatram Police Station Cr.No.715/2006 under Section 353, 294(b), 506(ii) r/w 34 of IPC on 23.08.2006.

(ii) K6 T.P. Chatram Police Station Cr.No.434/2015 under Sections 141, 147, 323 of IPC on 16.02.2015.

(iii) K6 T.P. Chatram Police Station Cr.No.1488/2015 under Section 341, 294(b), 323, 324, 427, 506(ii) r/w 4 of TNPHW Act on 15.09.2015.

(iv) K4 Anna Nagar Police Station Cr.No.1032/2017 under Section 147, 148, 341, 294(b), 324, 506(ii) of IPC r/w 3(1) TNPPDL Act, 1992 on



W.P.No.2739 of 2021

22.07.2017.

WEB COPY

Except one case in Crime No.715 of 2006 on the file of the Inspector of Police, K6 T.P. Chatram Police Station, in other cases he was acquitted by the trial Court. However, in the year 2018, on the request made by the second respondent, the first respondent opened history sheet for the petitioner under Police Standing Order 747(1). Subsequently, the petitioner's name was retained in the history sheet till 31.12.2023 by the impugned order dated 31.12.2022. Hence, the petitioner filed the present petition with the above said prayer.

3. The learned counsel appearing for the petitioner submitted that history sheet shall be opened only for the chronic offender under the Police Standing Order 747(2). Even according to the prosecution, the petitioner was never convicted in any case. So far he involved in four cases in which, he was acquitted in three cases and in one case, he is facing the trial. Therefore, opening of history sheet itself is illegal. That apart, when the history sheet to be retained for subsequent period of two years, the first respondent ought to have got orders from the superior officer to retain the petitioner in the history sheet. Without any orders



W.P.No.2739 of 2021

from the superior officer, once again the petitioner name has been retained in the history sheet till 31.12.2023.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the Police Standing Order 747(1) states that the person who is resident permanently or temporarily within the station limit, who is known or believed to be addicted to or to aid and abet the commission of crime, whether convicted or nor. Since the petitioner involved in four previous cases and also he is an habitual offender involving in rowdy activities, Katta panchayat etc., the history sheet has been maintained for the petitioner only to discreet watch. As per Police Standing Order 748(2), the name of the petitioner has been retained till 31.12.2023. Therefore, though the petitioner was acquitted in three cases, his name can be retained in the history sheet.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.



W.P.No.2739 of 2021

6. On perusal of the records, on the request made by the second respondent dated 15.06.2018, the first respondent opened history sheet for the petitioner on the ground that he had involved in four cases. Out of four cases, three cases ending in acquittal and in one case he is facing trial viz., in Crime No. 715 of 2016. Though the person who convicted or not can be retained in history sheet under the Police Standing Order 746(1), the petitioner's name was ordered by the first respondent to open history sheet for the petitioner. It was under Police Standing order 747(1).

7. It is relevant to extract the provisions under Section 747 (1) of the Police Standing Order as follows :-

“PSO 747. Automatic opening of History sheets :-

(1) History sheets shall be opened automatically at the time of conviction for person convicted as under and shall be retained for two years after release from jail.”

Thus it is clear that history sheet shall be opened automatically for the persons convicted and shall be retained for two years after release from jail.



W.P.No.2739 of 2021

8. Insofar as the petitioner is concerned, he was never convicted so far, and he is facing trial in Crime No.715 of 2006 on the file of the K6 T.P. Chatram Police Station. Further in order to retain the petitioner name in the history sheet, as per Police Standing Order 748(2), the first respondent ought to have obtained order above the rank of Assistant Superintendent of Police or Deputy Superintendent of Police. It is relevant to extract the Police Standing Order 748(2) as under :-

“PSO 748. Discontinuance of History Sheets:-

(1).....

(2) Where retention of a History sheet is considered necessary 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 the extension in the first instance upto the end of the next December and further annual extensions from January to December.”

9. On perusal of the impugned order dated 31.12.2022, there is no reference with regard to the orders from the superior officer while retaining the petitioner in the history sheet. On perusal of records also revealed that no evidence to show that the first respondent obtained



W.P.No.2739 of 2021

orders from the superior officer. Therefore, the impugned order dated 31.12.2022 cannot be sustained and it is liable to be quashed.

10. In view of the above discussions, the order dated 31.12.2021 in ref.c.No.73/AC/kil/camp/proc/2021, and the consequential order dated 31.12.2022 in ref.C.No.140/AC/kil/camp/proc/2022, on the file of the first respondent, are hereby quashed and the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

30.10.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

To

1. The Assistant Commissioner of Police,
Kilpauk Range,
Kilpauk,
Chennai – 600 010.
2. The Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai – 600 010.



WEB COPY



W.P.No.2739 of 2021

G.K.ILANTHIRAIYAN. J.

rts

3. The Public Prosecutor,
Madras High Court,
Chennai.

W.P.No.2739 of 2021
and W.M.P.Nos.3076 of 2021,
24771 of 2022 & 19016 of 2023

30.10.2023