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WP No.16796 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : **03.04.2023**

PRONOUNCED ON : **12.04.2023**

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Writ Petition No. 16796 of 2021

C.Thambiappan

... Petitioner

Versus

1.The District Collector,
Collectorate Office,
Nagapattinam District.

2.The Revenue Divisional Officer,
Nagapattinam.

3.The Superintendent of Police,
Nagapattinam District.

4.The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the order by the 4th respondent dated 12.06.2021 and quash the same and consequently remove the name of the petitioner in the History sheet opened against him in H.S.No.361 of 2011 dated



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21.12.2011, on the file of the Fourth respondent and to further direct the respondents to pay a compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs only).

For Petitioner : Mr. V. Karthikeyan.

For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1 to R4.

ORDER

The Writ Petition has been filed to call for the records relating to the order passed by the fourth respondent dated 12.06.2021, to quash the same and consequently remove the name of the petitioner in the history sheet opened against him.

2.The learned counsel for the petitioner submitted that there were totally five cases said to have been registered against the petitioner to brand him as a history sheeteer; that out of the five cases, three cases were closed; that in one case, the petitioner was convicted of a minor offence and was sentenced to pay fine and in the fifth case which is a sessions case, the petitioner was acquitted. The learned counsel therefore submitted that the respondents have misused their power to open history sheet and violated the Judgment of this Court in *Sabari @ Sabarigiri*



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Vs. The Assistant Commissioner of Police, Madurai & Others reported

in (2018) 4 MLJ (Crl) 585, wherein this Court had given elaborate guidelines as to when a person can be branded as a history sheeter. The respondents have failed to follow the conditions and the guidelines formulated by this Court and hence, the order branding and continuing him as history sheeter has to be set aside. The learned counsel further submitted that it is the admitted case of the respondents that the petitioner had not been convicted in any of the cases pending since 2012; that there are no cases pending since 2012 against the petitioner; and that therefore the act of the respondents in continuing to brand him as a history sheeter affects his fundamental rights under article 21 of the Constitution of India.

3. The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioner though had no cases since 2012, the respondents had continued to treat him as a history sheeter because he had the propensity to commit crime; that he is involved in prawn culture business and; that was in the habit of conducting Kangaroo Courts / katta panchayat along with his hench men. Hence, the learned Additional Public Prosecutor submitted that the respondents were



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justified in branding the petitioner as a history sheeter.

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4.This Court finds that the following cases were registered against the petitioner;

(i)Velankanni PS Cr.No: 95/11 u/s. 452, 364, 147, 148, 120(b), 307 @ 302 IPC SC 69/12

(ii)Velankanni PS Cr No: 96/11 u/s.147, 148, 144, 120(b), 115(ii), 149IPC r/w 25(1)(c)Arms Act

(iii)Velankanni PS Cr.No.108/11 u/s.3, 25(1)(a)Indian Arms Act

(iv)Velankanni PS Cr.No.142/12 u/s.110 e&f CrPC

(v)Velankanni PS Cr.No.455/12 u/s.143,147,341, 353 IPC.

Admittedly, the cases referred in item numbers 2, 3 and 4 were closed.

In the fifth case, the petitioner was convicted and sentenced to pay fine.

In the first case, the trial was conducted and the petitioner was acquitted by the learned Principal Sessions Judge, Nagapattinam by Judgment dated 10.02.2023 of all the charges. It is also an admitted fact that there are no cases filed after 2012 against the petitioner. In such circumstances, the principles laid down by this Court in ***Sabari @ Sabarigiri's case*** cited supra has been violated by the respondents herein.



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The Principles are extracted hereunder for better understanding;

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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



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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 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-catogrization 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



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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 rank of Assistant Superintendent of Police / Deputy Superintendent of Police. This provision is made applicable even for rowdy sheeters.

i. For the purpose of passing such orders, there must be valid materials available on record and it cannot be passed on the whims and fancies of the Police Officers. Therefore, the authority empowered to extend the period of retention of the names of the persons in the history sheet, should record his reasons based on both objective and subjective instructions.

j. Branding a person as a history sheeted rowdy, taints the name and image of the person. It is true that the entire purpose of maintaining a history sheet is to ensure public peace. However, it should be balanced with the fundamental right guaranteed to every citizen under [Article 21](#) of the Constitution of India. Therefore, a fair and reasonable decision, based on the materials, with sufficient reasons, becomes sine qua non to retain the name of a person as a history sheet



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beyond the period stipulated in the Police Standing Orders.

k. This Court has time and again brought the above principle to the notice of the Higher Police Officials and in one of the judgments in Manivanan Vs. State represented by The District Collector, Coimbatore District and Others, reported in (2013) 7 MLJ 501, this Court felt that there is lack of understanding on the part of the Police in maintaining history sheet and therefore, directed the Director General of Police to issue necessary instructions / guidelines / circulars with regard to the manner in which it has to be maintained and the manner in which the orders will have to be passed for extension of the period to continue a person as a history sheeter. “

5.From the facts and circumstances of the instant case narrated above, it is seen that the petitioner does not fall under PSO 747 since the petitioner was not convicted for any major offence. The only offence for which he was convicted, was a minor offence and he paid fine. That case is of the year 2012. Three other cases were closed as further action was dropped. In the only sessions case, the petitioner was acquitted by the Judgment dated 10.02.2023. Thus, this Court is of the view that there is



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absolutely no material to treat the petitioner as a history sheeter. The branding of the petitioner as a history sheeter is in clear violation of the guidelines issued by this Court besides violating his fundamental right under Article 21 of the Constitution of India. It is reported that subsequent to the impugned order, another order was passed to continue treating the petitioner as a history sheeter in the year 2022. It is also admitted that there was no further material and the continuation was based on the earlier order dated 12.06.2021. Therefore, this Court is of the view that the impugned order categorising the petitioner as a history sheeter and the consequential order continuing to treat him as a history sheeter are liable to be set aside and hence, set aside. However, the prayer for compensation of Rs.25,00,000/- is rejected as the petitioner has not justified his claim for compensation. The respondent police is directed to remove the name of the petitioner from the record of history sheeters list in H.S.No.361 of 2011 dated 21.12.2011 on the file of the Fourth respondent.



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6. Accordingly, this Writ Petition is allowed. No costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

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2. The Revenue Divisional Officer,
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5. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J



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