



W.P.(MD)No.12247 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.12247 of 2024

Victor

... Petitioner

versus

1. The Commissioner of Police,
Trichy City,
Trichy.

2. The Assistant Commissioner of Police,
Kottai Police Station,
Trichy City.

3. The Inspector of Police,
Kottai Police Station,
Trichy City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents to remove the name of the petitioner from the History Sheet maintained on the file of the 3rd respondent herein on the basis of the representation dated 15.04.2024.



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For Petitioner : Mr.N.Anand Kumar

For Respondents: Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This writ petition is filed for a Mandamus, directing the respondents to remove the name of the petitioner from the History Sheet maintained on the file of the 3rd respondent, based on his representation dated 15.04.2024.

2. The learned counsel appearing for the petitioner submits that the petitioner has not involved in any criminal case after 2018 and as on date, no criminal case is pending against the petitioner. He further submits that the previous criminal cases registered against the petitioner were also ended in acquittal. However, the 3rd respondent is maintaining the petitioner's name in the history sheet. Therefore, he seeks for a direction to the respondent Police to remove the name of the petitioner from the History Sheet.



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3. This Court, while dealing with the similar issue, in W.P.(MD)No. 21040 of 2018, etc. (batch cases), dated 03.07.2020, has issued the following direction:

“36. Accordingly, this Court issues the following directions. This is in addition to the principles or directions given earlier namely: (a) The decision to history sheet, or retaining one in the history sheet must be on tangible materials and on an objective basis as declared in Ganesan case [2010(6)CTC 507] (b) and the ratio of this Court in Sabari case [2018-2- LW. (CrL.)817], wherein this Court has held that mere registration of a FIR under Sec.109 and 110 Cr.P.C. cannot justify an action of the police to retain the name in the history sheet. There should have been a concluded proceedings.

A) In all the cases where a person has to be treated as an habitual offender, or one addicted to crime, or a known deprecator of law without a case pending against them when the police propose to history-sheet him, he should have been either notified as a habitual offender under the Tamil Nadu Habitual Offenders Act, 1948, or should have been one against whom an Order has been made under Sec.110 Cr.P.C.

B) In all cases a person can be history-sheeted only for two years as provided in PSO 748(1). Retaining a history sheet beyond that period is an exception and it must have an objective basis. Accordingly, history sheet cannot be retained merely on the ground that (a) investigation agency has not filed any final report, or, (b) where the case is pending trial beyond two years



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time as provided.

C) There cannot be any retention under PSO748 (2), unless (a) a fresh case is registered (which may be either under investigation or pending) subsequent to the case/cases which necessitated the opening of the history-sheet, or, (b) a history sheeter is notified as an habitual offender. This should be only for one year as in PSO 748(2). Every subsequent decision to extend or retain a history sheeter in the history sheet should be made only on the same basis as indicated.

D) Where no subsequent case is registered, a former convict should not be treated as a suspect.

E) In reckoning the number of cases for treating a person as addicted to or habitually given to commit a crime, cases where (i) the investigation agency has dropped a case, or (ii) where the FIR was closed under Sec.468 Cr.P.C, by the Court which is empowered to take cognizance of an offence on a Police report, or (iii) where a history sheeter has been discharged or acquitted by a competent Court, and/or (iv) quashed by this Court or by the Hon'ble Supreme Court shall not be included. However, those cases where the investigation or trial is pending, they can be reckoned. This direction has no application to National Registry maintained under the Criminal Law Amendment Act, 2018.

F) Where cases are registered in connection with a citizen participating in any peaceful protests, agitations, or demonstrations or the like, history sheet should not be opened unless an order is passed by the Executive Magistrate under Sec. 107 or 110 Cr.P.C., This is not available to non-citizens. It is



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clarified that if any other offence alleging violence, or damage of property or threat to personal safety or life of other citizens is also involved, the directions given herein is not applicable.

G) The Director General of Police is required to constitute a District wise committee through appropriate police officials to examine all the cases of history-sheeting on the basis of parameters hereinabove provided within a period of one year.

H) The Director General of Police is directed to take such necessary steps to automate the process of history sheeting to make the whole exercise self-driven.

I) The Director General of Police shall submit a half yearly progress/compliance report the direction given in G and H.

J) The Director General of Police is required to issue a circular contained in A to F of this paragraph along with those stated in Ganesan Vs The District Superintendent of Police & others [2010(6)CTC 507] and Sabari alias Sabarigiri Vs. The Assistant Commissioner of Police, Annanagar (L & O), Madurai City [2018-2 LW (CrI) 817] as indicated above, to all the SHO and the police Officials who are empowered to supervise/inspect their functioning, in Tamil. The DGP is also required to sensitize the superior police officials who inspect/supervise the functioning of the SHO and the concerned police station in this regard.”

5. In this case, since the petitioner has involved in several case, a history sheet has been opened against him. Now, the petitioner was



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acquitted from all the criminal charges. According to the petitioner, he has not involved in any other offence from the year 2018. However, the 3rd respondent is maintaining his name in the history sheet for the past 10 years. As per the decision cited supra, the history sheet should not be maintained for more than two years. Therefore, the act of the 3rd respondent is illegal and arbitrary.

6. Accordingly, this writ petition is disposed of with a direction to the respondents to remove the name of the petitioner from the history sheet and pass orders in this regard, as expeditiously as possible. No costs.

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Index :Yes/No
Internet : Yes/No
NCC : Yes/No.
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