



W.P.(MD)No.18914 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

W.P.(MD)No.18914 of 2021

T.Kumar

... Petitioner

vs.

1.The Superintendent of Police,
Virudhunagar,
Virudhunagar District.

2.The Deputy Superintendent of Police,
Thiruchuli,
Virudhunagar District.

3.The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar District.

... 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 impugned order passed by the second respondent in Na.Ka.No.27/HC/Ka.Thu.Ka/Thiruchuli/2021 dated 04.10.2024 and quash the same as illegal, improper, unconstitutional, unlawful and arbitrary and consequently direct the respondents to remove the petitioner's name from the rowdy list in H.S.No.637/2015 displayed in the notice board by the 3rd respondent police.



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For Petitioner

: Mr.R.Murugan

For Respondents

: Mr.M.Sakthi Kumar,
Government Advocate (Criminal Side)

ORDER

The grievance of the petitioner is that the third respondent opened a criminal history sheet in H.S.No.637/2015 on 01.09.2015 and though it is pending for six years, they have not closed the same. His further contention is that in the writ petition in W.P.(MD)No.14081 of 2021, this Court directed the second respondent to dispose the representation of the writ petitioner dated 03.10.2020 within a period of four weeks from the date of receipt of a copy of that order and the same went in vain. He therefore filed the present petition.

2. Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) would contend that originally 9 cases were pending against the present petitioner and all the cases were disposed of and in only one case, the petitioner was convicted for the offences punishable under Sections 341, 294(b), 323 and 506(2) IPC. According to him, now two more cases are pending against the present petitioner and therefore,



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his name cannot be removed from the history sheet.

3. A perusal of the records shows that the third respondent Police filed a final report in C.C.No.204 of 2022 before the learned Judicial Magistrate No.II, Thiruchuli, Virudhunagar District against the present petitioner for the alleged offences punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act and the same is pending for trial. Another First Information Report registered by Thiruchuli Police Station is under investigation. Therefore, there are only two cases pending against the petitioner. In the decision in Thirumagan and another vs. The Superintendent of Police, Madurai and others reported in 2020 2 LW (Crl.) 266, a single Judge of this Court (Hon'ble Mr.Justice N.Seshasayee) has observed that.

"B.In all cases a person can be history-sheeted only for two years as provided in PSO 748(1). Retaining a history sheetee 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 time as provided.

C. There cannot be any retention under PSO 748(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 sheet 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 sheet in the history sheet should be made only on the same basis as indicated."

In the instant case, even as per the respondents, in one case, investigation is pending and in another case, trial is pending for more than two years. In the circumstances, the second respondent Police cannot continue the name of the petitioner as a history sheet. Moreover, no reason is assigned by the officials concerned while extending the period for continuing the name of the petitioner as a history sheet except by quoting the pendency of two cases against the petitioner.



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4. In the result, the writ petition is allowed. No costs. The respondents are directed to remove the name of the petitioner from the history sheet in H.S.No.637/2015.

22.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

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Virudhunagar,
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Thiruchuli,
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- 3.The Inspector of Police,
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R.HEMALATHA, J.

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