

Chandrabose Vs. 1.The Assistant Commissioner of Police,

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Court : Chennai

Decided On : Aug-31-2015

Judge : The Honourable Ms.Justice R.Mala

Appellant : Chandrabose

Respondent : 1.The Assistant Commissioner of Police,

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

31. 08.2015 CORAM THE HONOURABLE MS.JUSTICE R.MALA
W.P.(MD)No.14740 of 2015 and M.P.(MD)Nos.1 and 2 of 2015 Chandrabose :
Petitioner Versus 1.The Assistant Commissioner of Police, Annanagar (L&O)
Range, Madurai City, Madurai. 2.The Inspector of Police, Puthur Police Station,
Madurai. : Respondents PRAYER: Writ Petition is filed under Article 226 of the
Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to
call for the records relating to the impugned order passed by the first respondent in
C.No.09/Memo/AC-ANR/L&O/MC/15, dated 03.07.2015 and quash the same and
consequently, direct the first respondent to close the history sheet. !For Petitioner :
Mr.M.Subash Babu ^For Respondents : Mr.D.Muruganantham, Additional
Government Pleader :

ORDER

The present Writ Petition has been filed to set aside the impugned order dated 03.07.2015 and also to direct the first respondent to close the history sheet.

2. The learned counsel for the petitioner would submit that history sheet was opened against the petitioner on 11.03.2011, since the petitioner is facing many criminal cases. Admittedly, all the cases have been ended in acquittal, the last one has been disposed of on 18.06.2014. On 01.07.2014, another case has been registered in Crime No.578 of 2014, but, subsequently, alteration report has been filed, in which, the name of the petitioner has been deleted. Now, he mend his ways and he has already completed his Law Graduation and he has become a law abiding citizen. Without considering the same, the respondents continuously cooked up a case one after another against the petitioner, and hence, he filed a Writ Petition being W.P.(MD)No.83 of 2015, wherein, this Court, by order dated 23.02.2015, passed the following order: "4. In view of the limited scope of the prayer, without expressing any opinion on the merits of the issue involved, the third respondent is directed to pass appropriate orders on the representation of the petitioner dated 12.12.2014, taking into consideration the Division Bench order of this Court reported in (2010) 4 MLJ (Crl.) 12, in Selvaraj vs. Inspector of Police, and also on merits and in accordance with law, after giving notice to the interested parties, if any, within a period of four months from the date of receipt of a copy of this order. It is made clear that this order should not be construed as giving any positive direction to the respondents and he shall apply his mind independently and pass appropriate orders in the manner known to law."

In pursuant to the said order, after considering the representation of the petitioner, the first respondent has passed the impugned order dated 03.07.2015, opening a history sheet against the petitioner, which is under challenge in this Writ Petition.

3. The learned counsel for the petitioner would submit that though several cases have been registered against the petitioner, all of them have been ended in acquittal and he was not involved in any case and now, he has completed his law graduation. Because of opening of history sheet, he is unable to enroll himself as an advocate and to do his avocation. Adding further, the learned counsel would submit that the impugned order has been passed by a person, who is not

competent to pass such an order and hence, he prayed for setting aside the impugned order dated 03.07.2015.

4. Resisting the same, the learned Additional Government Pleader would submit that the offences involved are heinous in nature and even though he was acquitted from the charges levelled against him even in 2014, subsequently, another case has been registered, but, his name has been deleted by alteration report.

5. He would further submit that as per Tamil Nadu Police Standing Orders 749(b), persons, not convicted, but believed to be addicted to crime, shall be classed as suspects and history sheets shall be opened and, therefore, applying the said PSO to the case on hand, the petitioner may be classified as a rowdy and rowdy sheet may be opened for him under the orders of the Superintendent or Sub-Divisional Officer, because of his continuous involvement in heinous crime, even though the cases registered against the petitioner have been ended in acquittal. Therefore, the first respondent has rightly opened the history sheet against the petitioner. He would further submit that the impugned order has been passed by the Assistant Commissioner of Police, who is competent to pass an order opening history sheet against a suspect. Therefore, viewing from any angle, the impugned order does not warrant any interference at the hands of this Court.

6. I have considered the submissions made on either side and perused the materials available on record.

7. Admittedly, history sheet was opened against the petitioner on 11.03.2011, since he is facing many criminal cases, which were registered right from 2010 and the offences involved are heinous in nature. Later on, all the cases have been ended in acquittal. It is also true that Crime No.578 of 2014 has been registered on 01.07.2014 against the petitioner, but, subsequently, as per alteration report, his name has been deleted and as on today, nothing is pending against him.

8. The first limb of argument advanced by the learned counsel for the petitioner is that merely because the petitioner is facing many criminal cases involving the offences which are heinous in nature, it would not amount to continue to open the history sheet against him. Admittedly, four cases registered earlier have been

ended in acquittal and he was not involved in any other case. Furthermore, he completed his law graduation and because of the impugned order, he is unable to enroll himself as an advocate.

9. Insofar as the second limb of argument that the impugned order has not been passed by a competent person is concerned, the said argument does not merit acceptance, because, as per Section 748(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. Here, the impugned order has been passed by the Assistant Commissioner of Police, who is competent to pass such orders, as per the said PSO.

10. Now, the petitioner has also given an undertaking that he will not involve in any other crime in future and he will become a role model to others.

11. In view of the foregoing reasons and the decision relied upon by the petitioner in Selvaraj vs. Inspector of Police [(2010) 4 MLJ (Crl.) 12]. and in order to give one more opportunity to the petitioner to reform his old attitude, I am of the view that the impugned order passed by the first respondent dated 03.07.2015 is liable to be set aside and accordingly, set aside. The first respondent is directed to close the history sheet opened against the petitioner.

12. The Writ Petition is allowed as indicated above. No costs. Consequently, the connected miscellaneous petitions are closed. 31.08.2015 Index : Yes / No Internet : Yes / No SML To 1.The Assistant Commissioner of Police, Annanagar (L&O) Range, Madurai City, Madurai. 2.The Inspector of Police, Puthur Police Station, Madurai. R.MALA, J.

SML Order made in W.P.(MD)No.14740 of 2015 Dated:

31. 08.2015 .

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