

Ramesh Kumar Sharma Vs. the State and ors.

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Court : Delhi

Decided On : May-08-1986

Reported in : 1986(2)Crimes333; 1986(11)DRJ123; 1986RLR388

Judge : R.N. Aggarwal and; Mahksharief-Ud-Din, JJ.

Acts : Gambling Act - Sections 9, 12 and 55; Excise Act, 1979 - Sections 1, 14 and 61; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 107 and 151

Appeal No. : Criminal Writ Appeal No. 278 of 1985

Appellant : Ramesh Kumar Sharma

Respondent : The State and ors.

Advocate for Pet/Ap. : V.K. Jaitley and; R.P. Lao, Advs

Judgement :

Malik Sharief Ud-din, J.

(1) The Station House Officer, Police Station Farash Bazar, Shahdara, Delhi, opened a history sheet against the petitioner which in terms of the counter filed by the respondent Siri Ram Meena Sho Police Station Farash Bazar was approved by Dcp (East) on 28th February 1984 and thereafter hit name was entered in register No. 10 part li of the Surveillance Register. The petitioner has made a grievance that there was no justification for opening the history sheet or putting his

name in register No 10 part II. He has, therefore, prayed that the history sheet be quashed and his name be removed from register No. 10 Part II and he has also sought a direction to the effect that the finger prints, foot prints and the photographs of the petitioner which are kept on the records of the police station Farash Bazar be destroyed.

(2) The petitioner has given large number of details in respect of the fact as to how he is being kept under surveillance and is taken to the police station and is made to undergo humiliation and indignities. He has also given details in respect of his assets, business and family. In short, the petitioner after detailing the facts about the background of the case in which he was once involved has submitted that the opening of history sheet against him is unwarranted, illegal and bad in the eyes of law and is against the provisions of Punjab Police Rules, 1934 Chapter XXIII under the heading 'Prevention of Offences'. According to him since there is no justification for opening the history sheet his surveillance is also unwarranted and illegal. The petitioner has further submitted that he is neither a habitual offender nor is he habitually addicted to crime nor is he an abettor of the same ; that he was falsely implicated by the police station Farash Bazar in a case under Section 61/1/14 of the Excise Act.

(3) Respondent No. 5, SHO Police Station Farash Bazar has submitted a counter affidavit in which he has stated that the petitioner was involved in FIR No 660 dated 3-11-1975 under Section 12/9/55, Gambling Act, Police Station Shahdara, (2) FIR No. 598 dated 9-10-1979 under Section 61/1/14, Excise Act, Police Station Farash Bazar, Delhi and (3) under Section 107/151, Criminal Procedure Code . dated 8-11-1985. He has also stated that since the petitioner is a bad character he has been rightly kept under surveillance and his finger prints etc. are rightly retained under the provisions of the Police Rules. It is also submitted that the petitioner is a desperate person and gives refuge to habitual offenders and criminals; that the petitioner is associated with dreaded dacoits, namely, Suresh Pandit, Sambhu, Naresh Pandit, Sunil Tyagi, etc. and was also instrumental in arranging their defense and in pursuing the bail petitioners of these notorious dacoits. Respondent No. 5 has, however, denied that the petitioner is either being harassed or being subjected to any indignities and humiliations.

(4) In his rejoinder affidavit the petitioner has submitted that in Fir 'No. 598 under Section 61/1/14, Excise Act, he was prosecuted for being in possession of 1/4th bottle of English wine and the case is still pending in the court. He has denied that he was ever arrested under Section 107/151 of the Code of Criminal Procedure and has admitted that in Fir No. 660 dated 3-11-1975 under Section 12/9/55, Gambling Act, he was fined a sum of Rs. 50.

(5) After hearing the learned counsel for the parties we felt that it was .advisable to ask the other side to produce the history sheet maintained against the petitioner before us for perusal. The same was made available to us and we have gone through it. We, in fact, wanted to find out the basis for 1986(11) the belief of the respondents that the petitioner was associated with certain dreaded dacoits. On a perusal of the history sheet we found that barring a bald recitation in respect of his association with the alleged dreaded dacoits there is nothing on the record on the basis of which one could arrive at a reasonable belief that the petitioner is in any way associated with any bad characters. As per para 13.9 (2) (1), history sheet may be opened by or under the orders of a police officer not below the rank of Inspector for any person not entered in the surveillance register who is reasonably believed to be habitually addicted to crime or to be an aider or abettor of such person. On perusal of the petition, the return filed by the respondent No. 5 and the rejoinder we find that the petitioner has been involved in a very minor offence of gambling for which he was fined Rs. 50.00 and this incident is of 1975. We also find that the case under the Excise Act of 1979 also is a very minor one and is in respect of the fact that the petitioner was found in possession of 1/4th bottle of English wine. The petitioner has asserted that he was never arrested under Section 107/151, Cr. P C. These facts which have been highlighted in the rejoinder are not disputed.

(6) After giving our earnest consideration to the respective contentions and to the facts we are of the opinion that there is absolutely no justification for maintaining a history sheet against the petitioner as on the basis of this data it would be abnormal to categorise him as a person who is habitually addicted to crime or is an aider or abettor of such persons. The least that can be said is that on the basis of these facts no normal functionary of the State can arrive at a reasonable belief

that the petitioner is a habitual offender or is habitually addicted to crime or is an aider or abettor of such persons. The basic requirement of law is that before opening a history sheet there must be a reasonable belief about the person being a habitual offender. Since the effect of putting a person on the history sheet will definitely lower his estimation in the eyes of his friends, relations and society these provisions of the Punjab Police Rules are to be strictly construed. We are, therefore, of the view that there is no justification for opening the history sheet against the petitioner We allow the petition and quash the history sheet maintained against the petitioner by respondent No. 5 at Police Station Farash Bazar Shahdara. We also direct that his finger prints, foot prints and photographs shall be destroyed and shall no more be retained at the Police Station.

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