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(1987) 11 P&H CK 0013

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Writ Petition No. 426 of 1987

Parvinder Singh Dakha	APPELLANT
Vs	
State of Punjab and ors.	RESPONDENT

Date of Decision: Nov. 16, 1987

Citation: (1988) 1 RCR(Criminal) 274

Hon'ble Judges: Ujagar Singh, J

Advocate: O.P. Deva, D.S. Walia, Advocates for appearing Parties

Judgement

Ujagar Singh, J.

1. The petitioner is seeking the quashing of the historysheet opened by the respondents in respect of his name. The grounds for quashing the history sheet are that the petitioner is M.Sc. (Plant Pathology) from Punjab Agricultural University, Ludhiana and his father is a retired military officer who, after his retirement, is living in his native village. The petitioner also lives with his father, along with other members of his family.

2. In the year 1983, one Pritpal Singh, an officer of the Punjab Agricultural University, Ludhiana was murdered and the petitioner was falsely involved in that case for hatching up criminal conspiracy. He was then tried by the Court of Session and acquitted in June, 1986. Petition of the Punjab State for leave to appeal against the judgment of acquittal was dismissed in limine by the High Court. After registration of the case, name of the petitioner was entered in register No. 10, Police Station, Dhkha, District Ludhiana. Historysheet was also opened after taking his footprints, fingerprints and photographs in the Police Station. After the name of the petitioner was entered, as mentioned above, the Police officers of that Police Station started treating the petitioner as a criminal and harassing him every day by calling him at the Police Station. Thus, the entering of his name in the said register has lowered the petitioner in the estimation of his relatives and friends and he is humiliated. The petitioner applied for various posts after doing M.Sc., but entry of the name in register No. 10 and opening of history sheet stand in his way in

getting a job.

3. The relevant provisions of the Punjab Police Rules, 1934 (the Rules in short) are reproduced as under :

"23.4 SURVEILLANCE REGISTER NO. X

(1) xx xx

(2) xx xx

(3) In Part II of such register may be entered at the discretion of the Superintendent

(a) Persons who have been convicted twice, or more than twice, of offences mentioned in rule 27.29;

(b) Persons who are reasonably believed to be habitual offenders or receivers of stolen property whether they have been convicted or not;

(c) persons under security under sections 109 and 110, Code of Criminal Procedure;

(d) convicts released before the expiration of their sentences under the Prisons Act and Remission Rules without the imposition of any conditions.

Note : This rule must be strictly construed, and entries must be confined to the names of persons falling in the four classes named therein.

xx xx xx x

3.9 HISTORY SHEETS WHEN OPENED

(1) A history sheet, if one does not already exist, shall be opened in Form 23.9 for every person whose name is entered in the surveillance register, except conditionally released convicts.

(2) A history sheet may be opened by, or under the written 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 persons.

(3) The Government Railway Police will maintain the history sheets of criminals known or suspected to operate on the railway in accordance with police Rule 23.8. They will open history sheets themselves for criminals living in railway premises, who have been absent from their original homes so long that the railway premises may be regarded as their permanent residence. They may also open history sheets for wendering strangers reasonably believed to be habitually addicted to crime on the railway, whose original

homes cannot be traced...."

Apart from the above rules, rule 23.5(2) of the Rules provides that the names of persons who have never been convicted or placed on security of good behaviour shall not be entered unless the Superintendent has recorded definite reasons for doing so, but in this case no said definite reasons have been recorded by respondent No. 2, nor is the petitioner a habitual offender or a receiver of stolen property. Even there is no such allegation against the petitioner.

4. In reply to this petition, the affidavit of Shri R.S. Gill, Senior Superintendent of Police, Ludhiana on behalf of all the respondents shows that the petitioner was an accused person in case First Information Report No. 111 dated 20.3.1983, under Section 302/148/149/120B of the Indian Penal Code and 25/27 of the Arms Act, Police Station Sarabha Nagar, Ludhiana registered in connection with the murder of Prithipal Singh, the then Director, Students Welfare, Punjab Agriculture University, Ludhiana. It further stated that the petitioner absconded in that case and was declared a proclaimed offender and surrendered in Court only on 12.6.1985. He was tried in the said case and was admittedly acquitted in June, 1986.

5. In paragraph 4 of the petition, it is mentioned that apart from the said case, the petitioner was never tried or convicted by any Court for any criminal charge. In reply to this paragraph, it is stated that "it needs no comments". According to paragraph 5 of the reply, the name of the petitioner was entered in register No. 10 of the said Police Station and his historysheet was also opened because of the registration of the said case. In reply to paragraph 11 of the petition, it is specifically stated in the said affidavit of respondent No. 2 that the provisions of rule 23.5(2) of the Rules are not attracted in this case, as action against the petitioner was taken only under rule 23.4(2) of the Rules. In view of this reply, the case of the respondents is that the only reason for entering the name of the petitioner in register No. 10 and opening of his historysheet was the registration of the said case in which he was ultimately acquitted.

6. After hearing arguments of both the sides, I am of opinion that the registration of the said case against the petitioner became ineffective as soon as the petitioner was acquitted by the trial Court and his acquittal was latter upheld by dismissal in limine of the appeal by the State of Punjab in the High Court. Therefore, the provisions of rule 23.4 of the Rules will not at all apply as the petitioner was never convicted even once and the requirement of this rule is that conviction has to be in two or more cases of the offences mentioned in rule 23.9 of the Rules. The remaining part of the said rule need not be referred to, because no other ground has been given for the action by the respondents. Rule 23.9 of the said Rules, admittedly, even according to the affidavit of respondent No. 2, comes into operation when some body''s name is entered in the surveillance register maintained under rule 23.4 of the Rules. When the petitioner''s name could not be entered into the surveillance register, as stated above, no history sheet could be opened in respect of the same.

7. With the foregoing observations, this petition is accepted. It is directed that the petitioner''s name be removed from surveillance register, i.e. Register No. 10, historysheet opened in respect of the petitioner be quashed and fingerprints, footprints and photographs of the petitioner be destroyed.

8. The respondents are further burdened with costs of Rs. 500/ to be paid to the petitioner, as the very action in entering the name of the petitioner in surveillance register, only because a case was registered against him, was uncalled for; inasmuch as, already mentioned above, rule 23.4 of Rules, comes into operation when a person stands convicted twice and not only once and in this case, there is no question of point so with respect to the petitioner. This petition is disposed of accordingly.