

(2010) 08 AHC CK 0279

In the Allahabad High Court

Case No : Criminal Miscellaneous Petition No. 2224 of 2010

Nandan Singh Bora

APPELLANT

Vs

State of U.P. Through Secretary Home

RESPONDENT

Date of Decision : 04-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 08 AHC CK 0279

Hon'ble Judges : Raj Mani Chauhan, J and Virendra Singh, J

Final Decision : Allowed

Judgement

Raj Mani Chauhan and Virendra Singh, JJ.

1. This petition under Article 226 of the Constitution of India has been filed by the petitioner for quashing the History Sheet No. 66A of 20.5.2008 opened by the Police, P.S. Ghazipur, Lucknow against the petitioner. The submission of learned Counsel for the petitioner is that the Police of P.S. Ghazipur has opened a Class A history sheet against the petitioner on 20.5.2008. The police on the basis of eight criminal cases referred in Para 20 of the writ petition has opened the history sheet against the petitioner. Out of the eight cases mentioned in Para 20 of the writ petition, one case i.e. N.C.R No. 167/06, under sections 352, 504 and 506, IPC, P.S. Hazratganj, Lucknow is pending for trial and in rest of the cases the Investigation Officer has submitted final report in favoured of the petitioner.

2. The learned Counsel for petitioner submits that a historysheet against a criminal can be opened under para 228 of the U.P. Police Regulations which contemplates two kinds of history sheet. The first kind is Class A and second is Class B. Class A historysheet can be opened if a person is found to be involved in committing offences of dacoity, burglary, cattletheft, railwaygoods wagon theft, and abettors thereof. In this case the criminal cases, on the basis of which the historysheet has been opened by the Police against the petitioner do not belong any kind of category mentioned in Para 228 (1) of the U.P. Police Regulations. Therefore, the historysheet of the petitioner opened by the police, prima facie

appears to be illegal and liable to be quashed.

Learned Counsel for the petitioner in support of the submissions has placed reliance on a case decided by a Division Bench of this Court in the case of Mohd. Wasi alias Mohd. Makki in writ petition No. 4496(M/B) of 2003.

Learned Counsel further submits that the historysheet was opened by the Police on 20.5.2008 thereafter the police of P.S. Ghazipur slapped Gangster Act on the petitioner on the basis of two criminal cases which relates to subsequent dates before opening the historysheet. Therefore, these cases could not be basis for opening the history sheet.

3. Learned A.G.A opposed the petition and argued that the accused is a land grabber, he is habitual offender. The gang chart of the petitioner for slapping Gangster Act is Annexure No. 3 to the writ petition but two cases were already registered against the petitioner before opening the history sheet against him. The Investigating Officer submitted the chargesheet in those cases after opening the history sheet. Therefore, these cases, could be the basis for opening the historysheet against the petitioner.

Para 228 of the U.P. Police Regulations provides for opening historysheet against a person which is being extracted below:

228. Para V consists of history sheets. These are the personal records of criminals under surveillance. Historysheets should be opened only for persons who are or likely to become habitual criminal or abettors of such criminals. There will be two classes of historysheets:

1. Class A historysheets for dacoits, burglars, cattlethieves, railwaysgoods wagon thieves, and abettors thereof.
2. Class B historysheets for confirmed and professional criminals who commit crimes other than dacoity, burglary, cattletheft, and theft from railway goods wagons, e.g., professional cheats and other experts for whom criminal personal files are maintained by the Criminal Investigation Department, poisoners, cattle poisoners, railway passenger thieves, bicycle thieves, expert pickpockets, forgers, coiners, cocaine and opium smugglers, hired ruffians and goondas telegraph wirecutters, habitual illicit distillers and abettors thereof.

Historysheets of both classes will be maintained in similar form, but those for ClassB will be distinguished by a red bar marked at the top of the first page. No historysheet of class be converted into a historysheet of class A, though should be the subject of a historysheet of class B be found to be also addicted to dacoity, burglary, cattletheft or theft from railway goods wagons. A class, as well as B class, surveillance may under paragraph 238 be applied to him. In the event of a class A historysheet man becoming addicted to miscellaneous crime his historysheet may be converted into a class B historysheet with the sanction of the Superintendent.

4. In para 20 of the writ petition as many as eight criminal cases have been sighted on the basis of which the police has opened historysheet against the petitioner but these cases are not covered under Para 228 (1) of the U.P. Police Regulations. Therefore, no historysheet of the petitioner can be opened by the police. On the basis of case history mentioned in Para 228(1) of the Police Regulations Act. The history sheet opened by the police against the petitioner appears to be illegal and liable to be quashed.

5. In view of the observation made above, the petition is allowed and the Historysheet No. 66A7 dated 20.5.2008 opened by the Police/Station Ghazipur, Distt. Lucknow against the petitioner is quashed.