

SUPREME COURT OF INDIA**Bench: Justices Surya Kant and K.V. Viswanathan****Date of Decision: 7th May 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2024

(Arising out of SLP (Crl.) No.5719/2023)

AMANATULLAH KHAN ...APPELLANT**VERSUS****THE COMMISSIONER OF POLICE, DELHI & ORS. ...RESPONDENTS****Legislation:**

Article 226 of the Constitution of India

Section 482 of the Code of Criminal Procedure, 1973

Rule 23.8 and Rule 23.9 of the Punjab Police Rules, 1934

Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015

Subject: Appeal against the High Court's decision dismissing a writ petition for quashing the 'History Sheet' against the appellant and preventing the inclusion of his minor children therein.

Headnotes:

Privacy and Dignity of Individuals in Police Records – Challenge against police practices of recording details of family members of history sheeters in surveillance documents – Supreme Court finds undue inclusion of minor children in appellant's History Sheet against principles of juvenile protection and privacy – Amended standing orders introduced to safeguard privacy and dignity of individuals not directly involved in criminal activities, focusing on connections who could actually harbor the criminal when sought by police – Directs the enforcement of amended provisions and careful scrutiny by senior police officers. [Paras 2-12]

Protection of Minors – Emphasis on adherence to Section 74 of the Juvenile Justice Act, ensuring non-disclosure of minors' identities unless proven they harbored the offender – Orders the deletion of names of innocent individuals wrongfully included in police History Sheets, directing ongoing audits. [Paras 5-8]

Expansion of Protective Measures Nationally – Directions issued for all states and Union Territories to reevaluate and potentially amend police recording practices to avoid biased entries, specifically targeting vulnerable communities – Follow-up mandated for adoption of the 'Delhi Model' for better protection of human dignity under Article 21 of the Constitution. [Paras 14-17]

Decision: The appeal is allowed in part with directions to ensure the non-disclosure of identities of minors and innocent family members in police History Sheets as per amended Standing Orders. States and UTs directed to consider implementing similar protective measures. [Para 13]

Referred Cases: None .

JUDGEMENT

SURYA KANT, J.

- 1.** Leave granted.
- 2.** The appellant approached the High Court of Delhi through a writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 for quashing of the 'History Sheet' opened against him and the proposal to declare him as 'Bad Character' with the entry of his name in the Surveillance 'Register-X, Part II, Bundle A' at Police Station Jamia Nagar, District: South-East, Delhi. The Single Judge of High Court has, vide the impugned judgment dated 19.01.2023, dismissed the appellant's writ petition, giving rise to these proceedings.
- 3.** Upon notice, the Delhi Police entered appearance through Mr. Sanjay Jain, learned senior counsel, who was apprised of some disturbing contents of the History Sheet to the extent it pertained to the school going minor children of the appellant and his wife, against whom there was apparently no adverse material whatsoever for inclusion in the History Sheet. It was then apprised that the format of the history sheeters was prescribed following Rule 23.8 and Rule 23.9 of the Punjab Police Rules 1934 (in short, the "1934 Rules") as were applicable in the NCT of Delhi. Mr. Jain, learned senior counsel for the respondents, however, fairly agreed to re-visit the archaic rules with a view to ensure that the dignity, self-respect and privacy of the innocent people,

who incidentally happen to be the family members of a suspect, is not compromised at any cost.

4. Mr. Sanjay Jain, learned senior counsel has today placed on record the amended Standing Order No.L&O/54/2022 issued by the Commissioner of Police, Delhi. The aforesaid Standing Order pertains to 'Surveillance of History Sheetters and Bad Characters'. It appears that the Original Standing order was issued on 10.06.2022 and paragraph 9(2) thereof titled as "Preparation of History Sheet" was replicated from provisions of the 1934 Rules.
5. With the amended Standing Order issued on 21.03.2024, the Commissioner of Police has provided as follows:

"The space for "relation and connection" should be filled in with a view to afford clues about those persons with whom the criminal is likely to harbour when wanted by the police, including relations or friends living at a distance from his home, and his associates in crime, abettors and receivers. It may be noted that the space for "relations and connections" in the history sheet should reflect identities of those persons who can afforded him shelter when the offender is running/wanted by the police (in general) and should include his associates in crime, abettors and receivers (in particular) and no details of any minor relatives i.e. son, daughter, siblings should be recorded anywhere in the History Sheet unless there is evidence that the minor under question can, or has earlier had, afforded shelter to the offender, "while he was on run from police".

While preparing History Sheet, it may also be kept in mind that as per Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015, there is a prohibition on disclosing the Identity of a child in conflict with law or a child in need of care and protection of a child victim or witness of a crime through a report etc. Even though the History Sheet is an internal Police document and not a publicly accessible report, care must be taken that identities of only those minor relatives are entered into the History Sheet against whom evidence exists that minor in question has earlier had, afforded shelter to the offender, while he was on run from police". In addition to above, the particular nature of each person's connection should be noted against each, and, when persons shown as connections themselves have history sheets, a cross reference with those History Sheets should be given. Maximum phone numbers/mobile numbers or associates/relatives/acquaintances of BCs should be collected and placed for record. Aadhar Number, EPIC number, e-mail ID, social media accounts/profiles viz, facebook, Instagram ID, Twitter ID etc. to

be placed on file. Further mobile numbers & other available details of associates/relatives/acquaintance of BC should be collected and placed on record.”

- 6.** We find from the amended Standing Order that in the column “relations and connections”, it has been decided that identities of only those persons shall be reflected who can afford the history sheet/bad character shelter, when the offender is running/wanted by the police and it shall also include names of his associates in crime, abettors and receivers. The amended Standing Order emphatically says that no details of any minor relatives, i.e., son, daughter, siblings shall be recorded anywhere in the History Sheet unless there is evidence that such minor, has or earlier had, afforded shelter to the offender.
- 7.** Secondly, the amended provision now mandates that Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall be meticulously followed, whereunder there is a prohibition on disclosing the identity of a child in conflict with law or a child in need of care and protection or a child victim or a witness of a crime through a report etc.
- 8.** The amended Standing Order further clarifies that ‘History Sheet’ is an internal police document and not a publicly accessible report. It has cautioned the police officers that care must be taken to ensure that identities of only those minor relatives are entered in the History Sheet against whom evidence exists that such minor had earlier afforded shelter to the offender, while he was on the run from the police. The safeguard with regard to the details of phone numbers, Aadhar Card, EPIC number, e-mail I.D., social media accounts etc., have also been suggested in the amended Standing Order.
- 9.** It seems that so far as the case in hand is concerned, the decision taken by the respondents to the effect that the History Sheet is only an internal police document and it shall not be brought in public domain, largely addresses the

concern expressed by us in the beginning. Secondly, the extra care and precaution, to be now observed by a police officer while ensuring that the identity of a minor child is not disclosed as per the law too, is a necessary step to redress the appellant's grievances. It will surely prevent the undesirable exposure that has been given to the minor children in this case.

- 10.** All that we propose to direct the police authorities is that the amended Standing Order dated 21.03.2024 be given effect forthwith in the appellant's case also.
- 11.** In addition, we also direct the Commissioner of Police, Delhi to designate a senior police officer, in the rank of Joint Commissioner of Police or above, who shall periodically audit/review the contents of the History Sheets and will ensure confidentiality and a leeway to delete the names of such persons/juvenile/children who are, in the course of investigation, found innocent and are entitled to be expunged from the category of "relations and connections" in a History Sheet.
- 12.** It goes without saying that if a Police Officer of Delhi Police is found to have acted contrary to the amended Standing Order and or the directions given herein above, prompt action against such delinquent officer shall be taken.
- 13.** The impugned judgment of the High Court dated 19.01.2023 stands modified and the instant criminal appeal is disposed of in the above terms.
- 14.** Having partially addressed the grievance of the appellant, we now, in exercise of our *suo motu* powers, propose to expand the scope of these proceedings so that the police authorities in other States and Union Territories may also consider the desirability of ensuring that no mechanical entries in History Sheet are made of innocent individuals, simply because they happen to hail from the socially, economically and educationally disadvantaged

backgrounds, along with those belonging to Backward Communities, Scheduled Castes & Scheduled Tribes. While we are not sure about the degree of their authenticity, but there are some studies available in the public domain that reveal a pattern of an unfair, prejudicial and atrocious mindset. It is alleged that the Police Diaries are maintained selectively of individuals belonging to *Vimukta Jatis*, based solely on caste-bias, a somewhat similar manner as happened in colonial times. All the State Governments are therefore expected to take necessary preventive measures to safeguard such communities from being subjected to inexcusable targeting or prejudicial treatment. We must bear in mind that these pre-conceived notions often render them 'invisible victims' due to prevailing stereotypes associated with their communities, which may often impede their right to live a life with self-respect.

- 15.** The value for human dignity and life is deeply embedded in Article 21 of our Constitution. The expression 'life' unequivocally includes the right to live a life worthy of human honour and all that goes along with it. Self-regard, social image and an honest space for oneself in one's surrounding society, are just as significant to a dignified life as are adequate food, clothing and shelter.
- 16.** It seems that a periodic audit mechanism overseen by a senior police officer, as directed for the NCT of Delhi, will serve as a critical tool to review and scrutinize the entries made, so as to ascertain that these are devoid of any biases or discriminatory practices. Through the effective implementation of audits, we can secure the elimination of such deprecated practices and kindle the legitimate hope that the right to live with human dignity, as guaranteed under Article 21, is well protected.
- 17.** We are conscious of the fact that States or Union Territories, other than the NCT of Delhi, are not before us. They have not been heard. No positive

mandamus can thus be issued to them. Further, we are not aware of the existing Rules/Policies or Standing Orders in vogue in different States/Union Territories. We, therefore, deem it appropriate, at this stage, to direct all the States/Union Territories to revisit their policy-regime and consider whether suitable amendments on the pattern of the 'Delhi Model' are required to be made so that our observations made in paragraphs 14 to 16 of this order can be given effect in true letter and spirit.

- 18.** The Registry is, accordingly, directed to forward a copy of this judgement to the Chief Secretary and Director General of Police of all States and Union Territories to enable them to consider and comply with what has been held above, as early as possible but not later than six months.
- 19.** All pending applications, if any, also stand disposed of.

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