ORDER

The following observations of Hon'ble **Justice V.R. Krishna Iyer** in the case of *MOHAMMAD GIASUDDIN vs. STATE OF ANDHRA PRADESH*[1] should prelude this judgment:

> *"…Criminality is a curable deviance. The morality of the law may vary, but is real. The basic goodness of all human beings is a spiritual axiom, a fall–out of the advaita of cosmic creation and the spring of correctional thought in criminology…**If every saint has a past, every sinner has a future, and it is the role of law to remind both of this.** The Indian legal genius of old has made a healthy contribution to the world treasury of criminology. **The drawback of our criminal process is that often they are built on the bricks of impressionist opinions and dated values, ignoring empirical studies and deeper researches….**India, like every other country, has its own crime complex and dilemma of punishment. Solutions to tangled social issues do not come like the crack of dawn but are the product of research and study, oriented on the founding faiths of society and driving towards that transformation which is the goal of free India..."*

All these petitions involving similar questions of law & facts essentially pertain to *'Rowdy Sheeting'* and *'History Sheeting'*. After service of notice, the respondent – State having entered appearance through the learned Additional Government Advocate, has filed its Statement of Objections resisting the petitions. A few police officials rich in experience and talented too participated in these proceedings and thereby, appreciably contributed to the decision making process.

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[1] 1978 SCR (1) 153

II. RELIEFS SOUGHT BY THE PETITIONERS:

Petitioners in W.P No. 4504/2021, W.P No. 6136/2017, W.P No. 29117/2019, W.P No. 14359/2020, W.P No.8564/2021, W.P No.9116/2021, W.P No. 13998/2021, W.P No.13999/2021, W.P No. 14003/2021, W.P No.15756/2021, W.P No. 15802/2021, W.P No. 14399/2020, W.P No. 17538/2021 & W.P No. 23902/2021 seek a Writ of *Certiorari* for quashing endorsements/communications whereby their names are loaded to the '*rowdy register*'. Petitioners in W.P No. 14399/2020, W.P No. 14022/2021, W.P No.15696/2021, W.P No. 15708/2021, W.P No. 19880/2021, W.P No. 17538/2021 & W.P No. 23902/2021 seek a Writ of *Mandamus* for producing particulars of entries in the '*Rowdy Register*'. Petitioners in W.P No. 14566/2021 and 18632/2021 have sought for a Writ of *Prohibition* and a *Declaration* respectively. Even their grievance, presumably is as to the legality of continuation of their names in the '*Rowdy Register*'.

III. CONTENTIONS OF PARTIES:

(i) Petitioners *inter alia* argue that there exists no discernable procedure for entering of their names to the *Rowdy Registers* maintained in the jurisdictional police stations and that there is no procedural & substantive safeguarding of victims of rowdy sheeting, which has many implications on their liberty, privacy & reputation. Mindless rowdy sheeting violates their fundamental rights guaranteed under Articles 14, 19, 21, & 22

of the Constitution. In support of their submission, they rely upon comparative study material of Criminal Records Information obtained from foreign jurisdictions like Australia, Canada, U.S. & U.K. They press into service the following decisions: *K.S PUTTASWAMY vs. UNION OF INDIA*[2], *KHARAK SINGH vs. STATE OF UTTAR PRADESH*[3], *DHANJI RAM SHARMA vs. SUPERINTENDENT OF POLICE*[4], *GOBIND vs. STATE OF MADHYA PRADESH*[5], *MALAK SINGH vs. STATE OF PUNJAB & HARYANA*[6], *PEOPLE'S UNION FOR CIVIL LIBERTIES vs. UNION OF INIDA*[7], *BHAVESH JAYANTI LAKHANI vs. STATE OF MAHARASHTRA*[8], *R.G SOMASHEKAR GOWDA vs. THE COMMISSIONER OF POLICE*[9] and *KAZIA MOHAMMED MUZZAMMIL vs. SUPERINTENDENT OF POLICE*[10].

(ii) Respondent – State, *per contra,* contends that *rowdy sheeting* has been a necessary practice since Colonial Days and it is managed by police officials with expertise and due restraint; there is enough justification for *'institutionalized rowdy sheeting'* since it is essential for maintaining law & order and peace & tranquillity in an organized society. Sufficient substantive & procedural safeguards are put in place; victims

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[2] (2017) 10 SCC 1
[3] AIR 1963 SC 1295
[4] AIR 1966 SC 1766
[5] (1975) 2 SCC 148
[6] (1981) 1 SCC 420
[7] (1997) 1 SCC 301
[8] (2009) 9 SCC 551
[9] ILR 2012 KAR 1038
[10] ILR 2001 KAR 1735

can avail the facility of grievance redressal mechanism. There is an *'institutionalized in-house procedure'* in the Police Department. After all, rowdy sheeting or history sheeting is not a punitive measure and therefore no indulgence of Writ Court is warranted. In support of their stand, they bank upon the following decisions: *K.M MUNISWAMY REDDY vs. STATE OF KARNATAKA*[11], *DEPUTY INSPECTOR GENERAL OF POLICE vs. S. SAMUTHIRAM*[12], *STATE OF KARNATAKA vs. PRAVEEN BHAI THOGADIA*[13], *SHILPI CONSTRUCTIONS vs. UNION OF INDIA*[14], *RAJAN vs. STATE OF KARNATAKA*[15]and *M.J SIVANI vs. STATE OF KARNATAKA*[16].

(iii) On request of the Court, learned Amicus Curiae, Mr. Sridhar Prabhu had appreciably undertaken a comparative study of Criminal Information Practices prevalent in our country, and in the United States & United Kingdom. A more local comparison was also made by referring to *'Maintenance of Police Station Records by Delhi Police'*. This apart, various international Conventions such as *UNIVERSAL DECLERATION OF HUMAN RIGHTS (1948), EUROPEAN CONVENTION OF HUMAN RIGHTS (1953)* & *CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION (2000)* are cited. He also pressed into service the following decisions: *VIJAY NARAIN SINGH vs.*

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[11] ILR 1992 KAR 2543
[12] (2013) 1 SCC 598
[13] (2004) 4 SCC 684
[14] (2020) 16 SCC 489
[15] ILR 2018 KAR 3531

STATE OF BIHAR[17], *BARIUM CHEMICALS vs. SH. A.J.RANA*[18], *S.G. JAISINGHANI vs. UNION OF INDIA*[19], *SHAYARA BANO vs. UNION OF INDIA*[20] and *WOLF vs. COLORADO*[21].

IV. I have heard learned counsel appearing for the parties & learned Amicus Curiae. I have perused the Petition Papers and adverted to the rulings cited at the Bar:

(a) These cases involve the following four categories broadly made on the basis of the due process of rowdy sheeting, periodical *suo motu* review, review on representation of aggrieved and absence of review despite representation. A Tabular Representation of the categories is as under:

(a) Cases in which rowdy sheeting is done absolutely without any basis,
(b) Cases in which periodical *suo motu* review of rowdy sheets has not been done, in regular course;
(c) Cases in which review of rowdy sheets has not been undertaken despite representation and;
(d) Cases in which rowdy sheeting is continued beyond reasonable period *sans* justification.

(b) Policing by its very nature, is a tough job whichever be the jurisdictions and whatever be the cultural & educational levels of the society concerned. In a society like ours it is even more complex, regard being had to a plurality of factors. Policing essentially involves exercise of sovereign power of State having

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[16] (1995) 6 SCC 289
[17] AIR 1984 SC 1334
[18] (1972)1 SCC 240
[19] (1967) 2 SCR 703
[20] (2017) 9 SCC 1
[21] (1948) 338 U.S. 25

implications on rights & liberties of individuals. Without policing one cannot conceive of law & order and peace & tranquillity in an organised society. Paradoxically, police are, in a sense, an unwelcome guest. However, their indispensability needs no proof. Policing, regardless of its enormous social utility continues to be a thankless job. Ours is the governance limited by Constitution. Police being the officials of the State do not enjoy immunity from constitutional control and more particularly Part IIII discipline. It needs to be stated that the vitality of fundamental rights has been enhanced by virtue of several international conventions such as United Nations Declaration on Human Rights (1948), International Convention on Civil and Political Rights (1966) and the like in the light of decisions in *KESAVANANDA*[22], *JOLLY GEORGE VERGHESE vs. BANK OF COCHIN*[23] *and VISHAKA vs. STATE OF RAJASTHAN*[24].

(c) The word *'Police'* figures in Entry 2, List II of VII Schedule of the Constitution subject to Entry 2A, of the List I, vide 42nd Amendment with effect from 03.01.1977. Several States have enacted law in respect of this subject. This State too has done it vide the Karnataka Police Act, 1963. A few sets of Rules have been promulgated by the State Government, being the statutory delegate under the Act. The Karnataka Police Manual, 1965 (hereinafter 'Manual') is one of them. The Manual comprises of a

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[22] AIR 1973 SC 1461
[23] 1980 SCR (2) 913

set of subordinate legislations nomenclatured as *'Orders',* and they are held to have statutory force vide *K.M.MUNISWAMY supra.* Some of these orders regulate *inter alia* surveillance and Rowdy Sheeting/History Sheeting. Police have to exercise this power subject to the Fundamental Rights, that are no longer *'water-tight compartments'*[25]. The scope, efficacy & interplay of these rights have been expanding *precedent by precedent,* hardly needs to be mentioned. Such expansion more particularly in the realm of privacy jurisprudence warrants a new approach to the subject matter.

(d) No reasonable person can deny that citizens seek protection of their rights & liberties more than ever before, banking upon constitutional guarantees. Conversely, the State functionaries claim more authority to restrict the rights & liberties of the citizens, as of necessity and in the larger public interest. This has been the case all throughout and the conflict goes on, whatever be the jurisdictions. The Writ Courts being the custodians of the Constitution have to balance these competing claims, keeping in view all pragmatic considerations. This is where the following observations of the Apex Court in *MALAK SINGH vs. STATE OF PUNJAB*, supra become instructive:

> *"...Section 23 of the Police Act prescribes it as the duty of police officers to collect and communicate*

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[24] AIR 1997 SC 3011

[25] *MANEKA GANDHI V. UNION OF INDIA*, (1978) 1 SCC 248

> *intelligence affecting the public peace, to prevent the commission of offences and public nuisance.* ***In connection with these duties it will be necessary to keep discreet surveillance over reputed bad characters, habitual offenders and other potential offenders****...but surveillance may be intrusive and it may be so seriously encroach on the privacy of a citizen as to infringe his fundamental right to personal liberty guaranteed under article 21 of the Constitution and the freedom of movement guaranteed by Article 19(1)(d)...****permissible surveillance is only to the extent of a close watch over the movement of persons under surveillance and no more****..."*

V. A BRIEF HISTORY OF 'HISTORY SHEETS' & 'ROWDY SHEETS':

(i) As a prelude to the historical inquiry, it would be profitable to recall the words of Justice Oliver Wendell Holmes[26]:

> *"...The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics. In order to know what it is, we must know what it has been, and what it tends to become. We must alternately consult history and existing theories of legislation..."*

Since the focal point is 'rowdy/history sheeting' and allied matters, it is pertinent to retrace the historical origin of said practice, *'...one gains the sense of an epic movement unifying the legal process, – the picture and promise of a plot majestically unfolding itself amid all the interludes and diversions – when one reads the history...'*[27]. For the present, this Court limits the

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[26] *The Common Law*, (1881)

[27] Benjamin N. Cardozo, *The Paradoxes of Legal Science*, Columbia University Press 18 – 19, (1928)

inquiry to the emergence of said practice during the 19th & 20th centuries, when we were under the Colonial Rule. To contextualise this discussion, it would be profitable to note the following words of TOM LLOYD[28] from the University of Edinburgh:

> *"In their attempts to constitute a particular kind of authority over bandits in early colonial India, British Administrators of the East India Company were moved to legislate against what they perceived as certain extraordinary criminal groups, defined by the alleged secrecy of their operations and the fundamental irrationality of their cause, which was figured as merciless depredation..."Thug' was the name given to a figure located beyond the pale of 'civil' society, and held to be a member of a community of 'irreclaimable' predators upon it, who could not be socialised into conventional law…Through policing, this defining and controlling, they characterized (and indeed caricatured) not only those individuals who would henceforth be considered non-subjects to which ordinary procedures of British administration would not apply – dacoits and thugs..."*

(ii) In light of the above, the identification of categories of '*thugs*' paved the way for innovative and extra-judicial mechanisms for dealing with the rowdy elements. The '*Anti Thuggee Campaign*' provided to Governor General Bentinck's administration by Captain William Sleeman sought to deal with the systematic and lurking menace that *until now escaped justice by exploiting the margins of Civil and State authority.* Though the campaign was pursued for colonial security, it was undertaken with overtones of '*duty*' for the good of hapless

society. An instance of such an approach is evident from judicial reforms introduced by Warren Hastings in 1772 whereby Article 35 of the Regulating Act provided that bandits would be executed and their families would become '*slaves of the state*'.[29] However, much of this was not put to implementation. Hastings had said[30]:

> *"...the dacoits of Bengal are not, like the robbers in England, individuals driven to such desperate course by sudden want: they are robbers by profession, and even by birth; they are formed into regular communities, and their families subsist by the spoils which they bring home to them: they are all, therefore, alike, criminal wretches, who have placed themselves in a state of declared war with our Government, and are therefore wholly excluded from any benefit of its laws..."*

A Dacoit was not simply set outside the law, but rather abandoned by it. Discretion of the colonial powers was the sole determinant as to whether the individual was to be protected by the law or exempted from it. *The bandit existed in a state of bare life in relation to the sovereign power that banished him* by branding.

(iii) The Criminal Tribes Act of 1871[31] enacted on the principle of *'hereditary criminality'* is one such example where Colonial powers *drew up a list of certain Indian communities and branded them as criminal tribes* in a wholesale way. While the Act to be

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[28] Tom Lloyd, *'Thuggee' and the Margins of the State in Early Nineteenth – Century Colonial India* (2008)

[29] M.P Jain, *'Outlines of Indian Legal & Constitutional History'*, 56-57, 6th Edition, (2006)

[30] *Id.*

[31] Act No. XXVII of 1871

repealed (1952) and tribes '*de-notified'*, the harrowing affects of such measure are still felt.[32] The words of PARAMA ROY[33] further elucidate upon the approach employed by Colonial Powers:

> *"...With all the discrepant valences of this discourse, one factor remained crucial in the determination of thuggee: the idea of hereditary criminality...the dacoits of Bengal were strenuously and repeatedly characterized...as fulfilling a hereditary calling if not a genetic disposition..."*

What MRINAL SATISH[34] in his article writes as follows is also pertinent:

> *"...three categories of persons over whom the police in colonial times kept a constant watch: first, the so-called 'criminal tribes'; secondly, the so-called goondas and thirdly, the so called 'bad characters'...the third category of persons who were kept under surveillance by the British were 'bad characters'...police maintained lists of people they termed as bad characters and profiled based on their appearances. The 'bad characters' did not have to be convicted to make their way into the police lists. Mere suspicion or apprehension that the individual would commit the crime or be an inconvenience to the police was sufficient to warrant an entry. Every stereotype that the British had sought to reinforce about people being born criminals was put to practice in making the lists...People from the family of a convicted person automatically found themselves on the list. Individual on these lists were kept under surveillance to ensure that they did not commit any crimes..."*

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[32]Committee on Elimination of Racial Discrimination, *Consideration of Reports Submitted by State Parties: Concluding observations of the Committee on the Elimination of Racial Discrimination,* U.N. Doc. CERD/C/IND/CO/19 (2007)

[33] *'Discovering India Imagining Thuggee.'* The Yale Journal of Criticism, 121-145, Volume 9(1), (1996).

[34] Mrinal Satish, *'Bad Characters, History Sheeters, Budding Goondas and Rowdies': Police Surveillance Files and Intelligence Databases in India*, (2010).

(iv) The use of '*rowdy sheets'* may find direct lineage to the precept of '*goondas'. The word 'goonda' is reported to have been first used in the Bengal Goonda Act of 1926.* It defined *a goonda to include a 'hooligan or other rough.' The 'goondas' included people with prior convictions, people suspected of committing offences and political activists. The Act required the Police to maintain files of goondas in their jurisdictions.* Other States too have Goonda Acts as well, which inter alia provide for externment of goondas by following a kind of quasi-judicial procedure which then did not approximate to '*due process'.* Order 1059 of the Police Manual defines 'a rowdy' *as a goonda and includes a hooligan, rough, vagabond or any other person, who is dangerous to the public peace and tranquillity.* The observations of a Co-ordinate Bench of this court in *R.G SOMASHEKAR GOWDA* vs. *COMMISSIONER OF POLICE, supra* are illustrative of this genealogy:

> *"An extensive definition has been used to define the expression 'rowdy'. Thus, a 'rowdy' is a 'goonda' and includes a hooligan, rough, vagabond, or any other person who is dangerous to the public peace and tranquillity. Only the main forms of rowdyism are enumerated in Clause (2) of Order 1059...Needless to say that a goonda as defined in the Goondas Act is also a rowdy."*

The Apex Court in *DHANJI RAM SHARMA vs. SUPERINTENDENT OF POLICE, supra* held that persons reasonably believed to be habitually addicted to crime (aiding or abetting) is a condition precedent for opening of a '*History Sheet'*. This inference of one

filling that character ought to be drawn on reasonable grounds. The word *'habitually'* would ordinarily mean *'repeatedly'* or *'persistently'*. A person thus should be in the *'habit'* of exhibiting criminal instinct vide *VIJAY NARAIN SINGH vs. STATE OF BIHAR*. A *'History Sheeter'* is thus, a habitual offender, accustomed to leading a life of crime. Ordinarily, a *'History Sheet'* can be opened on conviction (Order 1054), although acquitted from criminal charge *per se* may not result in his name being deleted therefrom.

(v) There exists a certain difference both in terms of substance and form of practice between a History Sheet and a Rowdy Sheet: The former is confined to persons against whom some crime was registered by the Police or some criminal case was instituted before Court or authority, regardless of the nature of their outcome. However, in the latter, there is no such precondition/requirement. In other words, a rowdy sheeter may be a person of clean slate insofar as criminal proceedings are concerned. The underlying purpose in both the cases is broadly the same. Arguably *'History Sheeters'* and *'Rowdy Sheeters'* are different. The only discernable elements of a *'rowdy sheeter'* are provided under Order 1059(1) & (2) which reads as under:

> *"1059 (1) a rowdy may be defined as a goonda and includes a hooligan, tough, vagabond, or any other person who is dangerous to the public peace and tranquillity.(2) The main forms of rowdyism are:-(a) passing indecent remarks at women and Schools and College Girls; (b) Intimidation of law abiding people by acts of violence or by show of*

> *force or by abusive language; (c) Forcible collection of subscription; (d) Taking sides in petty quarrels between landlords and tenants or between co-tenants and threatening people of the opposite party; (e) Disorderly conduct; (f) Rioting; (g) Snatching and Committing robbery."*

Chapter XXI, Part VI, of the Police Manual provides for *'History Sheets'* and *'Register of Rowdies'*; certain provisions are made common to both. Illustratively, Order 1057 states that History Sheets can only be opened for a period of two years and extension can take place upon the order of Superior Police officer. Clause (3) of 1057 applies the same to *'rowdy sheets'* as well. Further, definition of a rowdy implies any person dangerous to public peace & tranquillity. For example, eve teasers, people who collected money, persons indulging in rioting, goondas, bootleggers, and land grabbers would all come under the definition of 'rowdy'. To keep a watch on such persons a *'register of rowdies'* is maintained in every Police Station. For entering of names in the rowdy register order of the Superintendent of Police/Sub Divisional Police Office is required.

(vi) In every Police Station, as a matter of statutory policy *'Register of Rowdies'* has to be maintained in three parts, *viz*, Part A containing names of persons who are residing in the jurisdictional limits of the Police Station or Locals who are confirmed rowdies; Part B containing names of confirmed *rowdies* whose activities occur in a Police Station but are

resident in the jurisdiction of other Police Stations or non – locals who are confirmed *rowdies*; Part C containing names of novices or persons who have started coming to notice or are budding rowdies. Order 1059(12) provides that the name of a person figuring in Part C would be struck off if no adverse conduct on his part is noticed for a period of one year, reckoned from the date of entry. For removal of names from Part A or B, the orders of Superintendent of Police are required. Further, Order 1059(15) provides the manner in which a '*rowdy*' may be dealt with, i.e., prosecution, externment proceedings, or the like.

VI. COMPARATIVE VIEW:

Learned counsel appearing for the petitioners and the learned amicus curiae drew the attention of Court to the corresponding enactments and practices obtaining in other jurisdictions. Their perusal in profitable.

A. IN UNITED STATES OF AMERICA:

(i) History sheets obtaining in India broadly correspond to a Record of Arrest and Detention (hereinafter 'RAP Sheet') wherein all prior criminal antecedents of persons are recorded. For example, the contents of a RAP sheet include, a unique record number, date of arrest, particulars of the person, warrants issued, docket number, court of prosecution, details of disposal of case, details of incarceration and whether the case has been sealed.

(ii) Each State has its own procedures and guidelines for registering to and expunging names from the record; in New York the Division of Criminal Justice Service (DCJS) collects and distributes RAP Sheet information & allied matters. Similarly, in California, the Department of Justice (DOJ) does this. However, each instance has sufficient safeguards & procedures in terms of correction of information, representation for sealing of cases and procedure for expungement of names or particulars. Added, the U.S Supreme Court in *US DEPARTMENT OF JUSTICE vs. REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS*[35] unanimously held that disclosure of information/contents of RAP sheets to third parties offends privacy & autonomy of an individual, that are constitutionally provided and Congressionally protected.

B. <u>IN UNITED KINGDOM:</u>

(i) In UK, criminal data is entered into consolidated data bases, i.e., Police National Computer ('PNC') for information regarding convictions, cautions, reprimands, warnings & arrests and Police National Database ('PND') for information such as investigation, etc. The entries made in the PNC are regulated by Chief Constables; such a provision corresponds to the prevalent practice of entering of names into a Register of Rowdies with the prior permission of the Superintendent of

[35] 489 U.S. 749 (1989)

Police, in our system. However, there is no existing mechanism for expunging or sealing of criminal records.

(ii) For deletion of entries from the record, a written representation is to be made to the jurisdictional Chief Constable in accordance with the guidelines laid down by the National Police Chiefs' Council ('NPCC'). Interestingly, persons convicted by a court and persons currently under investigation are not eligible for making representation for deletion. The Rehabilitation of Offenders Act, 1974, provides that reprimands and warnings become '*spent*' after duration of time; once so spent the obligation to disclose also fades. Since May 2013, old and minor convictions are liable to be removed from the PNC databases.

C. <u>IN CANADA:</u>

In Canada, the Criminal Records Act, 1985 is enacted for *suspension of the records of persons who have been convicted of offences and have been subsequently rehabilitated themselves.* The Parole Board of Canada has the exclusive jurisdiction over such matters. The Act at clause (4.1), sub – clause (3) lays down the factors for determining whether ordering the record suspension would bring about the administration of justice. The relevant portions of the said clause are profitably reproduced as under:

> *"(3) In determining whether ordering the record suspension would bring the administration of justice into dispute, the Board may consider*

(a) The nature, gravity and duration of offence;
(b) The circumstances surrounding the commission of offence;
(c) Information relating to the applicants criminal history and, in the case of service offence, to any service offence history of the applicant that is relevant to the application, and
(d) Any factor that is prescribed by regulation."

Further, the enactment of clause (4.2), sub – clause (4) also provides that an applicant may not make a representation until expiry of one year from when request for suspension of criminal record has been rejected. Revocation of suspension on cogent factors is also provided for at clause 7.

D. IN AUSTRALIA:

The Australian Federal Police records and collects a database with regard to criminal records of individuals. The Criminal Records Act, 1991 enacted to ensure that conviction for minor offences, when the person has spent a certain time period as '*crime - free*', the conviction is to be considered as spent, not forming a part of an individual's criminal history. This apart, the Privacy Act, 1988 protects the criminal record information of individuals.

VII. ROWDY/HISTORY SHEETING: MARCH OF LAW IN BRIEF

(i) Before addressing the points for consideration as articulated above, it is necessary to survey the law that has been shaped by the judicial process. In *N.*

VENKATACHALAPATHY vs. STATE OF KARNATAKA[36], a Co-ordinate Bench of this Court traced the provision for preparation of a *'rowdy sheet'* to Order 1059 of the Mysore Police Manual, 1965 pointing out that though there was no statutory basis for said Order, it merely has the character of executive or departmental instruction. Subsequently, a Division Bench of this Court in *K.M MUNISWAMY REDDY vs. STATE OF KARNATAKA supra* considered its constitutionality and upheld its validity & statutory nature, observing that: *"...Order 1059 has statutory force made by the Inspector General of Police under Section 21 of the Karnataka Police Act, 1963..."*

(ii) This above case was followed by *DEVADAS DEVAIAH VS. STATE OF KARNATAKA*[37], disposed off on 27.09.1999 wherein the Court held that a *'rowdy sheet' can* only be opened if the grounds enumerated in Order 1059 were forthcoming and that they may not be opened against whom merely a criminal case is registered. Next, another Division Bench of this court in *KAZIA MOHAMMED MUZZAMMILL vs. SUPERINTENDENT OF POLICE, supra* held that the *'register of rowdies'* is a confidential document meant only for the use of Police for maintaining surveillance or keeping a watchful eye on persons suspected to cause disharmony in the community. Similarly, the Delhi Court

[36] ILR 1988 KAR 1261
[37] Writ Petition No. 23716 to 23718/98

in *SARJEET SINGH vs. COMMISSIONER OF POLICE*[38] while considering the opening of a history sheet, at paragraph 10 & 11 observed as under:

> *"...The Supreme Court in the case of Malak Singh vs. State of Punjab had gone into this controversy and answered the question holding that the said principle that a person must be given an opportunity of being heard will not be applicable in case of history sheeters and surveillance register. The enquiry was held to be confidential and the said principle of natural justice excluded..."*

The High Court of Andhra Pradesh too while considering similar aspects in *SUNKARA SATYANARAYANA vs. STATE OF ANDHRA PRADESH*[39] observed as under:

> *"...(4) Scope of Judicial Review of Police Action vis-a-vis History Sheet/Rowdy Sheet: (4.1) A mere conviction or convictions cannot be a thumb rule for opening history sheets or rowdy sheets though history sheet can be opened even without convictions for the limited purpose of watching a person discreetly. (4.2) At the time of opening of history sheet or rowdy sheet a competent officer has to apply mind taking into consideration the social background, the proceedings in the criminal trial if a person is convicted and all other relevant materiai before passing orders for opening history sheet or rowdy sheet..."*

(iii) A Co-ordinate Bench of this Court in the case of *MANI BHARATHI vs. STATE OF KARNATAKA*[40] disposed off on 13.06.2008 observed that ordinarily if no adverse conduct is noted, for about a year or so, the entry in the Register of Rowdies has to be struck off. Any discretion has to be exercised

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[38] 2002 CriLJ 3824

[39] 2000 (1) ALD (Crl.) 117 (A.P)

[40] Writ Petition No. 6011/2007 c/w Writ Petition No. 6012/2007

in accordance with the rules of reason and justice, said Lord Halsbury[41] more than a century ago. The case of *R.G SOMASHEKAR GOWDA vs. COMMISSIONER OF POLICE, supra* held that a *'rowdy'* is a *'goonda'* and that the meaning assigned in analogous statutes such as The *Goonda's Act*, 1985[42] may aid interpretation of the provisions of Order 1059, that are aimed at maintaining public peace and for preventing public nuisance. Similarly, the case of *SRI N.G. RAMACHANDRA vs. SUPERINTENDENT OF POLICE* [43] disposed off on 28.02.2013 noted that though the history recorded in the rowdy register points towards involvement of an individual in disruptive activities, 30 years having since passed, his *'life-boat'* apparently having undergone reformation, his name ought to be removed from the Rowdy Register.

(iv) *In DOMLUR SREENIVAS REDDY vs. STATE OF KARNATAKA*[44] disposed off on 13.08.2014, a Co-ordinate Bench of this Court held that the State having failed to produce any material to connect the acts of the petitioner to the grounds enumerated in Order 1059, and there being no justification for making an adverse entry in the Rowdy Register. The case of *GANESAN vs. DISTRICT SUPERINTENDENT OF POLICE*[45] held

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[41] *SHARP vs. WAKEFIELD* (1891) A.C 173

[42] *The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Trafficking Offenders and Slum Grabbers Act*, 1985

[43] Writ Petition No. 26082/2012

[44] Writ Petition No. 37261/2012

[45] 2010 (6) CTC 507

that *'History Sheets'* should not be made mechanically and on permanent basis, change being the constant, in the life of any individual. The observations of the court are profitably reproduced below:

> *"...The discretion conferred on the Police is both objective and subjective in nature. Objective satisfaction with reference to the conduct of the History sheeted person, to prevent commission or aiding or abetting of offences, by such persons, involving breach of law and order. The subjective satisfaction should be based on valid materials and it cannot be on the whims and fancies of the Police Officers. Reading of the Police Standing Order shows that the discretion conferred on the Police Officers is in-built, subject to limitations, including a specific period, provided under the said orders and is not for an unlimited period, unless the conduct of the History sheeted person is required to be monitored continuously..."*

VIII. AS TO WHAT EMERGES FROM THE RULINGS ABOVE MENTIONED :

Before adverting to the marked characteristics, the observations of Brandies, J. in the case of *ADAMS vs. TANNER*[46] assumes importance:

> *"...Whether a measure relating to the public welfare is arbitrary or unreasonable, whether it has no substantial relation to the end proposed, is obviously not to be determined by assumptions or by a priori reasoning. The judgment should be based upon a consideration of relevant facts, actual or possible --* ***ex facto jus oritur****. That ancient rule must prevail in order that we may have a system of living law..."*

[46] 244 U.S. 590 (1917)

From the perusal of the decisions mentioned in the preceding paragraphs, the following broad propositions can be articulated:

i) Order 1059 of the Police Manual partakes statutory character and its provisions answer the wide the wide definition of law given under Article 13(2) of the Constitution and therefore, the validity of action taken by the Police thereunder merits normative examination at the hands of higher ups in the department.

ii) A *'Rowdy Sheet'* may be opened and maintained when there is material to form a reasonable belief that the individual concerned has the propensity to disrupt harmony & peace in the society. Order 1059(10) provides for such a requirement. However, rowdy sheeting can only be done in regard to the grounds enumerated under Order 1059(1) & (2). This apart, in the exercise of this discretion, the authorities have to keep in mind that adverse entries in the rowdy register or history sheet have some civil consequences on the liberties of citizens that are constitutionally guaranteed.

iii) Ordinarily, a *'Rowdy Sheet'* may not be opened in respect of a person merely because a criminal case is registered against him and something more is required for that consistent with what is stated in the above paragraphs. *'History sheets'* are automatically opened on conviction and subsist for a period of two years (Order 1054). However, Order 1049(3) provides that names of persons must be removed from the history sheet ten years after the expiry of their last sentence; of course this can be done earlier too if the Superior Police Officer authorises it.

iv) A *'Register of Rowdies'* in all its parts is to be maintained as a record of confidentiality. Ordinarily, no opportunity of hearing needs to be granted at the entry level of the register.

v) Rowdy sheeting though a matter of discretion ought to be carried out reasonably with and with due deference to the existing provisions of law as construed by courts.

vi) Rowdy Sheets like History Sheets are also subject to periodical review. Representations ought to be given due consideration for deletion/discontinuation of name.

IX. <u>ROWDY/HISTORY SHEETING AND BALANCING OF INTERESTS:</u>

(i) Learned advocates appearing for the petitioners vehemently contended that the rowdy sheeting and history sheeting have grave implications on the rights & liberties constitutionally guaranteed to the individuals. Learned AGA justifies this measure on the ground of necessity and in public interest. Viewed from *PUTTASWAMY* jurisprudence, what is argued on behalf of the citizens and what is contended on behalf of the State appear to be the two extremes. Petitioners assert that the institution of Rowdy Sheeting should have no place in a *'liberty oriented'* regime whereas, the State counters the same. Mikhail Bakunin (1814 - 1876) had said that the *State is formed on the premise that men are wicked and society is organized on the assumption that they are virtuous*. Keeping this in mind, a golden balance needs to be struck between the two opposing claims so that the same shall serve the cause of

both the individual interest and the community interest. After all, our constitution does not guarantee rights and liberties in absolute terms. It has been a settled position of law that the private interest to an extent has to yield to the public welfare. In any organised society, an individual barters away some of his rights & liberties as a *'fair-price'* for being a member of the community. Therefore, the argument that the institutionalized Rowdy Register/History Sheeting should be abruptly discontinued by the stroke of a pen cannot be acceded to. Ordinarily, what measures are to be put in place in for regulating the lives of people, is a matter pertaining to the domain of Executive Wisdom. Our system enjoins a duty that every organ of the State should show due deference to the decisions of co-ordinate organs. Arguably, this too is a *'basic feature'* of the Constitution. Courts cannot run a race of opinions with the Executive.

(ii) As already mentioned above, Rowdy/History Sheeting as an institutionalized State mechanism to prevent social turmoil and to control crimes has been there since centuries in several civilized jurisdictions. Its forms & nomenclatures may vary but its obtainment cannot be much disputed. This fact itself proves its utility and consequent justification for continuance. Social scientists say that a social institution that does not substantially enure to the benefit of community at large would wither away, sooner or later. The enormous utilitarian value of

this police practice justifies the same being institutionalized by the State, some amount of evil associated with it, notwithstanding. At the same time, learned Amicus Curiae's reliance on an article by *CHARLES WAREN & LUIS D. BRADEIS*[47], written more than a century ago, is also justified. A relevant portion of the said article has been profitably reproduced below:

> *"...once a civilization has made a distinction between the 'outer' and the 'inner' man...it becomes impossible to avoid the idea of privacy by whatever name it may be called – the idea of a 'private space in which man may become and remain himself'... "*

(iii) The above having been said, one has to broadly advert to the likely consequences of Rowdy/History Sheeting: Senior Advocates, Mr. Sandesh Chouta & Mr. Prasanna Kumar rightly submitted that the registration of an individual in Rowdy/History Sheets results into curtailment of his rights & liberties, or at least it has such a potential. Registration assumes relevance in matters relating to police surveillance, externment orders, preventive detention, parading of shady characters, requisition for weapon deposit, verification of credentials for private & public employment, furnishing of inputs to lending agencies & banks, discreet information for marriage & business alliances. Human mind being what it is, entries in the Rowdy Register/History Sheets may play as

inarticulate factors, albeit in varying degrees, with the decision makers. In a world of expanding transparency, there is enormous public gaze & scrutiny of all State actions. Even classified information somehow leaks to the public domain, playing havoc with the privacy & autonomy of individuals. These entries also pose a threat to their reputation, that enjoys constitutional protection under the umbrella of Article 21 vide *SUBRAMANIAN SWAMY vs. UNION OF INDIA*[48]. An individual being branded as a '*bad character/ shady character*', '*goonda'* or '*rowdy'* is viewed as an '*anti-social element*'. During special occasions such as elections, festivals, social/political events, visits of Constitutional/Foreign dignitaries, social turmoil or the like, their activities are put under acute scanner. Police surveillance *per se* casts social stigma that may mar the political career of the individual concerned. This is where some mechanism/framework has to be devised to minimize the damage potential in the light of privacy jurisprudence as developed in *K.S. PUTTASWAMY, supra.*

(iv) Learned Advocate Mr. Prasanna Kumar is fairly justified in contending that persons being tagged as '*rowdy'* makes them susceptible to punitive treatments such as periodic parading & interrogation based on '*antecedents'* & assumed *'propensity to re-offend';* Even in matters like the claim for grant or renewal of

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[47] Charles Warren and Luis. D. Brandeis, *'Right to Privacy'*, Harvard Law Review, (4), 193, (1890)

Passports, police verification is routinely undertaken in terms of the Passport Manual which has some statutory force, the same having been promulgated under the Passport Act, 1967. A rowdy/history sheeter runs some risk of being denied these travel documents. This apart, the entries in the Registers are pleaded as a ground for opposing bail. In *S.VENKATESH vs. STATE OF KARNATAKA*[49] disposed off on 18.08.2015, a Co-ordinate Bench of this Court observed as under:

> *"...**the nature of the offences committed by this petitioner and further the fact that he is a rowdy sheeter**, though two criminal cases ended up in acquittal and in which charge sheet is not filed, but the facts and materials placed before me in this case, **I am not inclined to grant bail**. Accordingly, petition rejected."*

Additionally, rowdy/history sheeting, casts a shadow upon legal proceedings especially when factors such as criminal background, adverse history & pendency of criminal cases are some of the relevant factors upon which sentencing of the convict is ordinarily undertaken vide *GURUMUKH SINGH vs. STATE OF HARYANA*[50].

(v) The question of surveillance by the State vis-à-vis fundamental rights of its citizenry is no longer *res integra.* In this regard, the observations of FRANKFURTER, J. in *WOLF vs. COLORADO, supra* which have also been quoted in *KHARAK SINGH supra* has been profitably reproduced below:

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[48] (2016) 7 SCC 221

> *"...The security of one's privacy against arbitrary intrusion by the police....is the basis of a free society. It is therefore implicit in the 'concept of ordered liberty' and as such enforceable against the State through the Due Process Clause. The 'knock at the door', whether by day or by night as a prelude to search, without authority of law but solely on the authority of the police, did not need the commentary of recent history to be condemned as inconsistent with the conception of human rights enshrined in history and the basic constitutional documents of English-speaking people..."*.

Though, the extent of surveillance ought to be decided on the *tangled knots of specifics projected by each case*, the constitutional threshold of surveillance stops short of *'squeezing the fundamental freedoms guaranteed to persons'* and surveillance so intrusive that *'it would offend the dignity of individuals'* becomes impermissible. The Hon'ble Supreme Court in of *TOFAN SINGH vs. STATE OF TAMIL NADU*[51] observed:

> *"...The importance of Semayne case [77 ER 194] is that it decided that* ***every man's home is his castle and fortress*** *for his defence against injury and violence, as well as for his repose. William Pitt, the Elder, put it thus:* ***The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail—its roof may shake — the wind may blow through it—the storm may enter, the rain may enter—but the King of England cannot enter—all his force dare not cross the threshold of the ruined tenement****..."*

(vi) A closer examination of the constitutionality of surveillance as continuously shaped in the judicial process

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[49] Criminal Petition No. 468 of 2015
[50] (2009) 15 SCC 635
[51] 2020 SCC OnLine SC 882

points towards a balanced combination of *compelling State interest, substantive grounds* & *adequate procedural safeguards.* Viewed from these yardsticks, Order 1059 only provides for a '*reasonable belief*' based on '*substantive grounds'* as a *sine qua non* for entering the names of individuals to the *'register of rowdies'*. However, it must be said that there is a stark non-existence of adequate procedural safeguards, leaving the aggrieved with no hope of remedy. This malady has to be addressed by ensuring *'due process'* safeguards such as: (a) opportunity for representation before making entry to the register; (b) periodic *suo motu* review of entries in the registers, (c) review on request for deletion of names; & (d) petition against adverse decision. What the Apex Court in *MOHAMMAD GIASUDDIN vs. STATE OF ANDHRA PRADESH, supra* is worth adverting to:

> *"…Reform of the black letter law is a time-lagging process. But judicial metabolism is sometimes slower to assimilate the spiritual substance of creative ideas finding their way into the statute book… It is a truism, often forgotten in the hidden vendetta in human bosoms, that barbarity breeds barbarity, and injury recoils as injury, so that if hearing the mentally or morally maimed or malformed man (found guilty) is the goal, awakening the inner being, more than torturing through exterior compulsions, holds out better curative hopes."*

(vii) In light of the discussion in the preceding paragraphs it can be safely stated that: the implications of name of an

individual being entered, and indefinitely continued in the '*Register of Rowdies*' are far reaching. There are discernible consequences adverse to the interest of the individual concerned who may not be an accused. Therefore, there has to be a due procedure put in place for making or continuing entries in the rowdy register/history sheets. There also has to be evolved a proper Grievance Redressal Mechanism against a wrongful registration of names & their continuation, regardless of the request of the aggrieved for deletion. The existing provisions of the Manual as interpreted by the Courts hitherto supposedly prove inadequate in the light of *PUTTASWAMY* jurisprudence which has expanded the content & contours of privacy and autonomy of individuals.

X. HISTORY SHEETING OF INDIVIDUALS LONG AFTER ACQUITTAL:

One has to keep in mind that Rowdy Register and History Sheets have some difference in the light of text of the provisions of the Manual. Ordinarily, for making an entry in the history sheet an individual should have undergone some criminal proceedings that may or may not have ended in conviction. However, the rowdy sheet stands on a different footing in the sense that the person whose name figures therein may be a 'clean slater'. Punishment, in criminal jurisprudence, purges the guilt, is true. However, it is not that soon after completing the prison term, one becomes a *saint* or a *savant.* Both, legal,

social stigma or some kind of disability continues for some period even after one completes his imprisonment and comes out from the gaol. Several legislations, more particularly in the realm of election law, service law and the like encumber rights of convicts even after they have served the sentence and paid the fine. On the same analogy, it can be argued that even after a person successfully comes out with an acquitted he may risk his name being entered or continued in the history sheets, if cogent grounds therefore do continue. Merely because a person is acquitted of the criminal charge or that the criminal proceedings against him are quashed and since then long time has lapsed, he cannot as a matter of right seek deletion of his name from the history sheet on that ground *per se.* Something more is required. After all, rowdy sheeting & history sheeting are not the punitive measures but preventive techniques of possible disruption of societal peace. In any event, a History Sheeter can be shifted to the register of rowdies, if there are cogent reasons for that. However, all these are matters left to the regulated police discretion.

XI. DUE PROCESS IN ROWDY SHEETING:

(i) Indisputably, basic human rights are universal; however, their regulation is also a constitutional reality. Restrictions and regulations on Part III rights, is the trade-off which persons bear for being members of a civilized community. When law provides for prevention detention, it cannot be gainfully argued

that the rules providing for rowdy registration & history sheeting are unconstitutional. The rights constitutionally guaranteed compete with the power constitutionally vested in the State to restrict them. As already mentioned above, a golden balance needs to be a struck between these competing interests. While deliberating the grant of bail, the Apex Court in *GUDIKANTI NARASIMHULU vs. PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH*[52] observed:

> *"...After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of 'procedure established by law'. The last four words of Art. 21 are the life of that human right. The doctrine of Police Power, constitutionally validates punitive processes for the maintenance of public order, security of the State, national integrity and the interest of the public generally. Even so, having regard to the solemn issue involved, deprivation of personal freedom, ephemeral or enduring, must be founded on the most serious considerations relevant to the welfare objectives of society, specified in the Constitution..."*

Thus, the deprivation of liberty of an individual is *a matter of grave concern and permissible only when the law authorizing it is reasonable, even-handed and geared to the goals of community good and necessity spelt out* in the constitutional guarantees. Procedural due process rests on the foundations of the '*just, fair & reasonable*' clause, ensuring that the substance of the right is not eroded by mere dictates of the black letter of law. The Apex Court in *KESAVANANDA supra*, observed as under:

> *"...The reason why the expression "due process" has never been defined is that it embodies a concept of fairness which has to be decided with reference to the facts and circumstances of each case and also according to the mores for the time being in force in a society to which the concept has to be applied. As Justice Frankfurter said, "due process" is not a technical conception with a fixed content unrelated to time, place and circumstances See Joint Anti-Fascist Refugee Committee v. McGrath 341 U.S. 123..."*

(ii) On similar lines, *'compelling State interest'* avails as a ground for restricting personal liberty. However, it has to satisfy the 'substantive *due process*' clause, as discussed by the Apex Court in *K.S. PUTTASWAMY*, at paragraph 45:

> *"...Gobind resorted to the compelling state interest standard in addition to the Article 21 reasonableness enquiry. From the United States where the terminology of 'compelling state interest' originated, a strict standard of scrutiny comprises two things- a 'compelling state interest' and a requirement of 'narrow tailoring' (narrow tailoring means that the law must be narrowly framed to achieve the objective). As a term, compelling state interest does not have definite contours in the US. Hence, it is critical that this standard be adopted with some clarity as to when and in what types of privacy claims it is to be used..."*

Notably, *'procedural due process'* is no longer a *'formalistic requirement'* but rather signifies the *content of the procedure and its quality which must be fair, just and reasonable.* Jurisprudentially, it must be observed that the foundational blocks of *'substantive due process'* correspond to inalienable values of a social order, whence fundamental natural liberties too are derived. Procedural safeguards in the form of

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[52] 1978 (2) SCR 371

'substantive due process' too are the dictates of natural law. *Natural Justice is no mystic testament of judge-made juristics but the pragmatic, yet principled, requirement of fairplay as norms of a civilized justice-system.* On due process, RONALD DWORKIN[53] writes:

> *"…Our constitutional system rests on a particular moral theory, namely, that men have moral rights against the state. The different clauses of the Bill of Rights, like the* ***due process and equal protection clauses, must be understood as appealing to moral concepts rather than laying down particular concepts****; therefore, a court that undertakes the burden of applying these clauses fully as law must be an activist court, in the sense that it must be prepared to frame and answer questions of political morality…"*

(iii) Law has marched further to include this interpretation of 'substantive due process' vide Apex Court decision in *K.S PUTTASWAMY* wherein at paragraph 164, it is observed:

> *"…The quality of reasonableness does not attach only to the content of the procedure which the law prescribes with reference to Article 21 but to the content of the law itself. In other words, the requirement of Article 21 is not fulfilled only by the enactment of fair and reasonable procedure under the law and a law which does so may yet be susceptible to challenge on the ground that its content does not accord with the requirements of a valid law…"*

The above discussion highlights that though the determination of substantive content is left to the wisdom of the legislature, judicial inquiry is founded upon the realm of processes that become *'due'* when the State authorities in their anxiousness to

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[53] Ronald Dworkin, *Taking Rights Seriously*, Duckworth (1977)

protect the public interest may abridge liberty of persons in an arbitrary, unreasonable & unjust manner.

(iv) Though the institution of *'rowdy sheeting'* is evolved by necessity, the due process clause needs to embedded in the entire exercise. In *K.S. PUTTASWAMY* at paragraph 165 it is observed:

> *"...In his celebrated dissent, Justice Fazl Ali pointed out that the phrase 'procedure established by law' was borrowed from the Japanese Constitution (which was drafted under American influence at the end of the Second World War) and hence the expression means 'procedural due process'. In Justice Fazl Ali's view the deprivation of life and personal liberty under Article 21, had to be preceded by (i) a notice; (ii) an opportunity of being heard; (iii) adjudication by an impartial tribunal; and (iv) an orderly course of procedure..."*

The marked areas of *'procedural due process'* as mentioned above provides the broad guidelines for identifying areas and forms of processes that accrue to the individual due to his name being registered in the Rowdy sheet/History sheet. It may be said that while the State has a legitimate interest in the protection of its citizenry, there is also a duty resting on its shoulders for protecting the individuals as well. In matters of history sheeting and rowdy sheeting, because of their implications, the Police should critically examine & adjust the boundaries between the societal interest and liberties of the individual concerned. Therefore, arguably, there is a need for a comprehensive legislation concerning the subject matter post *PUTTASWAMY*. Till that is done, the commoners cannot be

asked to put up with the legal regime now obtaining, unsatisfactorily.

In the above circumstances, all these Writ Petitions are disposed off prescribing the following guidelines for supplementing the existing position of law relating to Rowdy Sheeting & History Sheeting:

GUIDELINES FOR ROWDY/HISTORY SHEETING:

i. Before entering the name of an individual to the Register of Rowdies, the jurisdictional police shall collect and collate the material information concerning him and frame the proposal for registration on that basis.

ii. A brief proposal notice shall be sent to the individual concerned in a sealed cover with an option to submit his representation within two weeks as to why his name should not be registered as a rowdy. However, there is no need to afford a personal hearing. In exceptional cases notice may be dispensed with for reasons to be recorded in the Register of Rowdies.

iii. In terms of Clause (5), Order 1059 of the Manual, the Superintendent of Police or the Sub – Divisional Police Officer shall not accord approval for entering the name of individual concerned to the Register of Rowdies without calling for records and objectively considering the same. He shall briefly record his reasons for according the approval and mark a copy thereof to the individual forthwith, with a mention that he may petition the Police Complaints Authority, against the same.

iv. The jurisdictional Police shall compulsorily once in two years, undertake a periodic review of entries in the Register of Rowdies *suo motu*, as provided under Clause (2), Order 1057 of the Manual. However, it is open to the aggrieved, to make a representation at any time after one year of registration, seeking deletion of name from the Rowdy Register on the basis of changed circumstances such as rectitude, good conduct, social/community service, etc.

v. The representation for review shall be considered by the jurisdictional Police at the initial level within a period of 30 days, during which necessary inputs may be obtained through the available sources as to merits of the claim. The recommendation shall be sent to the jurisdictional Superintendent of Police or the Sub – Divisional Police Officer, within 15 days along with the representation & the material collected thereon. Such recommendation along with the result of consideration of the representation shall be communicated to the individual concerned within next 15 days.

vi. Any individual aggrieved by the rejection of his representation or continuation of his name in the Register may petition to the Police Complaints Authority ordinarily within 30 days. However, no personal hearing shall avail. The petition shall be disposed off by recording reasons within an outer limit of 60 days, after considering the material on record or the fresh inputs that may be requisitioned, by the authority.

vii. The entire process of Rowdy/History Sheeting from the stage of issuance of proposal notice as specified above, up to the issuance of the orders on the petition if any to the Police Complaints Authority, shall be done only in a sealed cover procedure and that nothing therein shall be disclosed nor made available to anyone, except to the aggrieved, nor any Right To Information (RTI) application shall be entertained in this regard.

viii. The violation of these guidelines shall constitute a major misconduct and an adverse entry on proof thereof shall be made by the Disciplinary Authority in the Service Register of the erring official after hearing him and a copy thereof shall be marked to the victim of Rowdy Register/History Sheet, without brooking any delay.

ix. Whatever guidelines herein above laid down shall be applicable to the case of History Sheeters as well, *mutatis mutandis* and subject to the provisions of Karnataka Police Manual, 1965.

This court places on record its deep appreciation for the assistance rendered by Amicus Curiae, Mr. Sridhar Prabhu, Senior Advocates, Mr. Sandesh Chouta, Mr. Prasanna Kumar, and AGA Mr. Vinod Kumar. It also places on record its appreciation for the able assistance and research rendered by its official Law Clerk cum Research Assistant, Mr. Faiz Afsar Sait.

For information and needful action, the Registry is directed to send by speed post a copy of this order to:

(i) The Chief Secretary, Government of Karnataka, Bangalore.

(ii) The Director General and Inspector General of Police, Government of Karnataka, Bangalore,

Sd/-
JUDGE

Snb/cbc