
LEGALITY OF POLICE SURVEILLANCE THROUGH HISTORY SHEETS IN INDIA: A STUDY IN THE LIGHT OF INDIAN CRIMINAL JURISPRUDENCE

BY HIMANSHU VATS¹

Abstract

Police surveillance through history sheets constitutes a significant instrument of preventive policing in India. While its objective is to monitor habitual offenders and maintain public order, the practice operates largely through executive regulations rather than a comprehensive statutory framework. This raises critical constitutional concerns relating to privacy, dignity, and personal liberty under Article 21 of the Constitution of India.

This article undertakes a detailed doctrinal and jurisprudential analysis of the legality of history sheets. It examines their colonial origins, legal framework, and judicial interpretation, particularly in light of evolving constitutional principles such as the right to privacy and proportionality. The article argues that although preventive surveillance is not inherently unconstitutional, its arbitrary and disproportionate application undermines the rule of law. It concludes by proposing structural reforms to align police surveillance practices with constitutional mandates.

Keywords

History Sheets, Police Surveillance, Right to Privacy, Article 21, Preventive Policing, Criminal Jurisprudence, Fundamental Rights

1. Introduction

The maintenance of history sheets represents one of the most enduring features of preventive policing in India. A history sheet is typically opened against individuals suspected of habitual

¹ The author is a law student at Amity University Noida.

criminal conduct, enabling continuous police surveillance over their activities, associations, and movements.

While such surveillance is justified on grounds of crime prevention, it raises serious concerns in a constitutional democracy. The system operates at the intersection of state power and individual liberty, often blurring the line between suspicion and culpability.

In the absence of clear statutory safeguards, history sheets risk becoming instruments of arbitrary state action. This article critically evaluates whether such practices conform to the principles of Indian criminal jurisprudence and constitutional law.

2. Historical Evolution of Surveillance Practices in India

The roots of police surveillance in India can be traced to colonial governance. The British administration institutionalized surveillance mechanisms to control populations perceived as criminally inclined, particularly under the Criminal Tribes Act, 1871².

These systems were premised on suspicion rather than proof and were often used to suppress dissent. Although the Act was repealed after independence, the structural framework of surveillance persisted in the form of police regulations.

The continuation of history sheets reflects a colonial legacy embedded within modern policing, raising questions about their compatibility with constitutional ideals of liberty and equality.

3. Legal Framework Governing History Sheets

3.1 Police Regulations and Executive Control

History sheets are primarily governed by state police regulations, such as the Uttar Pradesh Police Regulations. These regulations empower police authorities to open history sheets against individuals suspected of habitual criminality.

However, such powers are largely discretionary and lack uniform statutory safeguards, creating the possibility of misuse.

3.2 Preventive Justice and Criminal Law

² Criminal Tribes Act, 1871 (repealed)

Preventive policing finds limited support in procedural law, particularly under provisions relating to security for good behaviour under the Code of Criminal Procedure, 1973³.

Yet, history sheets extend beyond these provisions by enabling continuous surveillance without judicial determination. This raises concerns regarding compatibility with the presumption of innocence, a cornerstone of criminal jurisprudence.

4. Nature and Consequences of History Sheets

A history sheet is formally an administrative record maintained by the police. Courts have clarified that it does not constitute proof of guilt⁴.

However, its practical implications are far-reaching:

- Continuous monitoring by police authorities
- Frequent visits and inquiries
- Social stigma and reputational harm
- Indirect restrictions on employment and mobility

Thus, history sheets function as a de facto punitive mechanism, despite lacking judicial sanction.

5. Constitutional Dimensions

5.1 Article 21: Personal Liberty and Dignity

The Supreme Court in *Maneka Gandhi v. Union of India* expanded Article 21 to include substantive due process⁵. Any state action affecting personal liberty must be just, fair, and reasonable.

Arbitrary surveillance through history sheets fails to meet this standard, particularly when it lacks procedural safeguards.

5.2 Right to Privacy

³ Code of Criminal Procedure, 1973 Section 107-110

⁴ *Mohammad Wajir V State of U.P.*, Allahabad High Court (2025)

⁵ *Maneka Gandhi V Union of India* (1978 SC)

The recognition of privacy as a fundamental right in Justice K.S. Puttaswamy v. Union of India marked a paradigm shift⁶. The Court held that any infringement of privacy must satisfy the tests of:

- Legality
- Necessity
- Proportionality

History sheets, often based on vague suspicion and lacking statutory backing, struggle to satisfy these requirements.

5.3 Freedom of Movement and Reputation

Surveillance practices may indirectly restrict the freedom of movement under Article 19(1)(d). Further, reputation has been recognized as part of the right to life, and unjustified inclusion in surveillance registers may violate this right.

6. Judicial Approach to Police Surveillance

6.1 Gobind v. State of Madhya Pradesh

In this case, the Supreme Court acknowledged the right to privacy in a limited form and upheld surveillance regulations subject to strict scrutiny⁷.

The Court emphasized that surveillance must not be excessive and must be justified by compelling state interest.

6.2 Malak Singh v. State of Punjab

This landmark judgment remains the most authoritative pronouncement on police surveillance⁸. The Supreme Court upheld the validity of surveillance registers but imposed critical limitations.

It held that surveillance must not amount to harassment and must respect individual dignity. The Court warned against excessive domiciliary visits and intrusive monitoring

⁶ Justice K.S. Puttaswamy V Union of India (2017 SC)

⁷ Govind V State of Madhya Pradesh (1975)

⁸ Malak Singh V State of Punjab (1981)

6.3 People's Union for Civil Liberties v. Union of India

Although dealing with telephone tapping, this case laid down procedural safeguards against arbitrary surveillance⁹.

The principles of authorization, necessity, and review are equally applicable to physical surveillance through history sheets.

6.4 Justice K.S. Puttaswamy v. Union of India

This judgment constitutionalized privacy and introduced the doctrine of proportionality. It significantly strengthens the argument against arbitrary surveillance mechanisms lacking statutory backing.

6.5 Recent High Court Jurisprudence

Recent decisions indicate a progressive shift:

- The Allahabad High Court has held that a solitary or stale case cannot justify opening a history sheet¹⁰.
- It has emphasized the requirement of material evidence demonstrating habitual criminal conduct¹¹.
- The Rajasthan High Court has quashed arbitrary entries in surveillance registers¹².
- The Kerala High Court has condemned intrusive practices such as night visits as violations of dignity¹³.

These rulings reflect a growing judicial insistence on accountability and proportionality in surveillance practices.

7. Critical Issues and Challenges

7.1 Absence of Procedural Safeguards

⁹ People's Union for Civil Liberties V Union of India (1977)

¹⁰ Allahabad High Court, 2025 (Solitary Case insufficient for History Sheet)

¹¹ Allahabad High Court, 2025 (requirement for habitual criminality)

¹² Rajasthan High Court, 2025 (quashing arbitrary surveillance entry)

¹³ Kerala High Court. 2025 (intrusive surveillance violates dignity)

Individuals are rarely given notice or an opportunity to contest their inclusion in history sheets.

7.2 Vagueness and Overbreadth

Terms like “habitual offender” lack precise definition, enabling arbitrary interpretation.

7.3 Indefinite Duration

Surveillance often continues for prolonged periods without periodic review.

7.4 Social and Economic Impact

The stigma attached to being a history-sheets affects employment, reputation, and social standing.

8. Comparative Perspective

In jurisdictions such as the United Kingdom, surveillance is governed by statutory frameworks ensuring judicial oversight. Similarly, in the United States, surveillance must comply with constitutional protections against unreasonable searches.

India’s reliance on executive regulations highlights the urgent need for legislative reform.

9. Recommendations

1. Enact a comprehensive statutory framework governing surveillance
2. Introduce mandatory notice and hearing before opening history sheets
3. Ensure periodic review and automatic closure mechanisms
4. Establish independent oversight authorities
5. Limit intrusive practices to ensure proportionality
6. Incorporate data protection principles

10. Conclusion

History sheets represent a classic example of the tension between preventive policing and constitutional rights. While their objective may be legitimate, their implementation often falls short of constitutional standards.

Indian criminal jurisprudence, particularly after the recognition of privacy as a fundamental right, demands that surveillance be lawful, necessary, and proportionate. The judiciary has taken important steps in this direction, but systemic reform is essential.

The future of police surveillance in India must be guided not by colonial legacy, but by constitutional morality, due process, and respect for human dignity.

