

CWP No. 11497 of 2014(O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 11497 of 2014(O&M).
Date of Decision : 01.09.2015.**

Jagroop Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. B.S. Bairagi, Advocate for the petitioner.

Mr. S.S. Chandumajra, Addl. A.G., Punjab.

Paramjeet Singh, J.(Oral)

CM No.11247 of 2015

Application is allowed, as prayed for, subject to all just exceptions.

Replication to the written statement filed on behalf of respondents No. 1 to 5, is taken on record.

CWP No. 11497

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of direction for initiation of criminal prosecution as well as disciplinary proceedings against the police officers, who illegally detained the petitioner and committed

atrocities which took place on 29.04.2014 to 02.05.2014 at Police Station Mehna, District Moga and further direction to award monetary compensation to the petitioner for his illegal arrest and torture by the police.

Brief facts averred in the petition are to the effect that petitioner belongs to a poor family. He got married about 10 years ago. From the wedlock, three children were born. However, the wife of the petitioner was having illicit relations with someone else, which was the main cause of dispute between the husband and the wife and she fled away from the house and was not found till 01.05.2014. In the meantime, a dead body of some other woman was found in the pound of nearby village, this corpse was falsely identified by a member of in-laws family of the petitioner as wife of the petitioner on 29.05.2014. During the course of those proceedings, the petitioner is alleged to have been detained by the police.

In pursuance of the notice of motion, respondents No. 1 to 3 and 4 and 5 have filed their written statements separately. The facts have been denied by the police officials and it is stated that neither the petitioner was detained in illegal custody nor he was ever tortured, therefore, question of payment of compensation does not arise. The petitioner was married to Harpreet Kaur about 10 years prior to the alleged incident but she was found to have died and proceedings under Section 174 Cr.P.C. were completed.

I have heard learned counsel for the parties and perused the record.

Perusal of the record shows that there is not even an iota of evidence except an affidavit relied upon by the petitioner annexed with the replication to show that he was illegally detained. In the present case, the disputed fact is with regard to illegal custody of the petitioner in the police station, there is no evidence except the affidavit. The present evidence by way of affidavit cannot be accepted unless respondents get opportunity to cross-examine the deponent.

Dismissed.

However, the petitioner will be at liberty to approach the Civil Court.

September 01, 2015.
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(PARAMJEET SINGH)
JUDGE