

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1368 of 2013 (O&M)
Date of decision: March 10, 2016

Lakhwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjay Majithia, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondents No.1 to 3-State.

Mr.K.S.Dhaliwal, Mr.Sanjay Pandit and
Mr.Balbir Kumar Saini, Advocates
for respondents No.4 to 7.

INDERJIT SINGH, J.

The petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for issuance of writ in the nature of roving for the appointment of a warrant officer for the release of detenue namely Tejinder Singh, his wife Kiranpreet Kaur and Nirmal Singh @ Sonu from the custody of respondents No.3 to 7.

It is mainly stated in the petition that on 11.07.2013, daughter of respondent No.4 Gursharan Singh ran away from her house with her own consent with Tejinder Singh and solemnized marriage as per Sikh Rites and thereafter, both of them sent a

representation to the SSP, Majitha to protect their life and liberty from respondents No.3 to 7. on 12.07.2013, both the detenue i.e. Tejinder Singh and Kiranpreet Kaur filed petition under Section 482 Cr.P.C. for protecting their life and liberty from respondents No.3 to 7 and after filing the petition, they had gone to Hotel Gobind Palace, Naya Gaon. It is further stated that at about 3.00 P.M., the private respondents, some unknown relatives and police party of P.S. Lopoke came at Hotel at Naya Gaon and forcibly took away the detenues from the Hotel and now they are in custody of respondents No.3 to 7.

Notice of motion was issued and a Warrant Officer was appointed, who filed the report dated 15.07.2013.

Learned State counsel as well as learned counsel for respondents No.4 to 7 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that the Warrant Officer filed a report dated 15.07.2013 in the present case, in which he stated that he along with petitioner, two friends and a relative, reached at Police Station Lopoke at 12.30 a.m. on 14.07.2013. The door of the police station was got opened. Sukha Singh was on Santri duty. Thereafter, Warrant Officer went to NMHC Sukhvinder Singh's room and took the possession of roznamcha. The SHO was not present in the police station. Then, the Warrant Officer along with the petitioner, his two friends and a relative, searched for alleged detenues in the premises of police station Lopoke but the alleged detenues were not found

there. Then the Warrant Officer made an entry in the DDR register and he asked Sukhvinder Singh ASI as to whether the alleged detenues were required in any case in the police station, who told that detenues were not required in any case. The Warrant Officer along with petitioner and others left the police station and went to Padhari village. Petitioner Lakhwinder Singh received a telephonic call from his uncle i.e. father of detainee that detenues namely Tejinder Singh and Nirmal Singh @ Sonu have come to their house, so therefore, there is no need to raid any other place further. In this regard, joint statements have been recorded, which were enclosed. The Warrant Officer informed the detenues to come present before this Court on 15.07.2013 and thereafter, the Warrant Officer came back to Chandigarh.

On 15.07.2013, the detenues appeared before this Court and gave statements that they were actually present in the police station at the time when the Warrant Officer and the petitioner and others reached the police station and Warrant Officer got them released from there. The Warrant Officer was also present and he produced the Mohtarbnama i.e. statements stated to have been signed by two alleged detenues and also by Lakhwinder Singh as also father of Tejinder Singh and others, wherein it has been recorded that these persons were actually found by the Warrant Officer in the homes of alleged detenues and that they were no longer interested in raiding the house of Kiranpreet Kaur i.e. the third alleged detainee.

This statement was denied by both the detenues, who stated that they

were actually found sleeping in the police station by the Warrant Officer and their statements and signatures, as also of the others who signed the document, were obtained under pressure of the police.

This Court passed the order directing enquiry into the matter by learned Sessions Judge, Amritsar as to whether the report of Warrant Officer is correct, as also the statement of petitioner and two alleged detenues.

After conducting the enquiry, the report of learned Sessions Judge, Amritsar dated 11.09.2013 was received, in which, he concluded that Kiranpreet Kaur had gone with Tejinder Singh of her own and she had married Tejinder Singh of her own will. Due to some dispute between Kiranpreet Kaur, Tejinder Singh and Nirmal Singh alias Sonu, Kiranpreet Kaur had informed her parents, who came and took Kiranpreet Kaur along with them to village. The allegations of Tejinder Singh and Nirmal Singh alias Sonu having been abducted by the police from P.S. Lopoke along with relatives of Kiranpreet Kaur and they being illegally detained at P.S. Lopoke and they having been got released from illegal detention by the Warrant Officer, appointed by this Court, are not established. It is also in the report that Kiranpreet Kaur has levelled allegations on Tejinder Singh and Nirmal Singh alias Sonu having sexual intercourse with her against her wishes, for which, an FIR is pending but only during the criminal trial, their authenticity and truthfulness can be determined. In the report, it is also held by learned Sessions Judge, Amritsar that report of the Warrant Officer seems to be correct and that the statements of

petitioner Lakhwinder Singh, detenues namely Tejinder Singh alias Gora and Nirmal Singh alias Sonu regarding abduction of Tejinder Singh alias Gora and Nirmal Singh alias Sonu by parents/relatives of Kiranpreet Kaur and police officials from Police Station Lopoke and they having been taken to P.S. Lopoke and illegally detained there till they were got released by the Warrant Officer, come out to be incorrect. The objection petition has been filed against this report.

At the time of arguments, the main argument of learned counsel for the petitioner is that telephonic call record etc. were not collected by the learned Sessions Judge, Amritsar and statement of some of the persons, which are required to be examined, are also not recorded. I find that the statements of the petitioner etc. have been recorded. During the enquiry, learned Sessions Judge, Amritsar recorded the statements of about 20 witnesses and about 25 documents were produced which have been discussed by learned Sessions Judge, Amritsar. A detailed enquiry has been conducted only for the purpose that whether the detenues were found in the police station or whether the report of Warrant Officer was correct or incorrect.

From the record, I find that there is nothing on the record to show that the detailed enquiry report given by learned Sessions Judge, Amritsar, is incorrect. Otherwise also, it is a habeas corpus petition and admittedly the detenues are now not in the illegal custody of anybody and report of Warrant Officer along with statements of petitioner, detenues and other person are already on record. As per

the report, the detenues have not been found in illegal detention. The report of the Warrant Officer is duly supported from the enquiry conducted by learned Sessions Judge, Amritsar and there is no cogent reason to disbelieve the enquiry report and otherwise also, this petition has become infructuous as the detenues are no more in the illegal custody of anybody.

In view of the above discussion, the present criminal writ petition stands dismissed accordingly.

However, it is made clear that any finding stated in the enquiry report regarding the FIR under Section 376 IPC etc. against Tejinder Singh alias Gora and Nirmal Singh alias Sonu, in no way, will be treated as opinion on the merits of the case and those observations are only for the purpose of this criminal writ petition only.

March 10, 2016
Vgulati

(INDERJIT SINGH)
JUDGE