

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

CRWP No.1407 of 2016

Date of Decision: November 22, 2016

Gurteshwar Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Parampreet Singh Brar, Advocate
for the petitioner.

Mr. Jasjeet Dhaliwal, DAG, Punjab.

Mr. Onkar Singh, Advocate
for respondents No.4 to 6.

FATEH DEEP SINGH, J.

Reply on behalf of respondent No.4 filed in the Court today is taken on record. Learned counsel for official-respondents submits that they do not intend to file any reply to the petition as they have no role to play in the averments made in the petition.

The petitioner-Gurteshwar Singh has come up before this Court in this Criminal Writ Petition by way of writ of Habeas Corpus by virtue of Articles 226/227 of Constitution of India read with Section 482 Cr.P.C. invoking inherent powers of this Court for issuing a writ in the nature of Habeas Corpus and for appointment of Warrant Officer seeking directions to get released the detenues Basant Singh son of Joginder Singh and Bikramjit Singh son of Gurpartap Singh from the illegal custody of private respondents No.4 to 6. Claim is based on the stand that the petitioner

happens to be the owner of truck bearing No.PB-08-BT-8885 and Tipper No.PB-07-AS-9685 on which he has employed detenues as drivers. The contentions of the learned counsel for the petitioner that respondent No.4 happens to be owner of HP Fuel Force Filling Station in District Jalandhar from where the trucks of the petitioner were getting filled their fuel tanks. It is during the course of events, the petitioner had stopped buying fuel from respondent No.4 and as a consequence of which the private respondent felt disgruntled, agitated and as a revenge to pressurise the petitioner to buy fuel from his Petrol Pump by illegal means on account of political connections has illegally on 24.10.2016 detained both these above said persons, drivers of the trucks along with vehicles at his fuel station. It is alleged that the employees, the other private respondents of the respondent No.4 have helped him in accomplishing this task and hence the petition in question.

This Court vide orders dated 27.10.2016 had appointed Warrant Officer, who after raid submitted his report dated 03.11.2016, wherein, it has been brought to the notice of this Court that during the intervening night of 27-28 October, 2016 the Warrant Officer after reaching Police Station, Maqsudan had made entry and after taking Police assistance conducted a raid at the said Petrol Pump owned by private respondent No.4 and in the premises of the Petrol Pump had come across these two vehicles and the employees of respondent No.4 on the asking of the Warrant Officer had refused to divulge anything and both the drivers so detained were found to be sleeping in the vehicles, whose doors were locked from the outside and it was thereafter, obtaining the keys of the vehicles from the staff of the

Petrol Pump, Warrant Officer enabled the drivers to get out of the vehicles.

The private respondent No.4 in his reply by way of affidavit has refuted the stand of the petitioner taking it to be a ploy to set up a vendetta to escape his liability to pay a sum of Rs.10,69,693.61/- to respondent No.4 which was due against the petitioner for having obtained and purchased fuel for his trucks from respondent No.4. The answering respondent has stoutly denied having ever illegally detained these persons or took any steps to further the situation and, thus, invariably shown ignorance over the alleged incident attributing allegations of fraud and deceit by the petitioner who has filed petition on misconceived and false allegations and sought dismissal of the same.

Upon hearing learned counsel for the parties and perusing the records of the case. The report of the Warrant Officer is in itself suggestive of the facts that it was in the presence of Police party consisting of ASI Atmjit Singh, HC Talwinder Singh; HC Gulzar Mohmad, Constable Harjinder Singh, Constable Parminder Singh with Raffid PCR raid was conducted at HP Fuel Force Filling Station, Village Bal, Jalandhar admittedly owned by respondent No.4. It was there within the premises of the fuel Station, the two vehicles in question were found parked and by virtue of an attendant of the fuel Station, Raj Kumar, a salesman was found and who testified the fact that Petrol Pump was owned by respondent No.4 and could not give any satisfactory answer to the queries of the Warrant Officer that for what purpose these vehicles were parked at the fuel Station. It was after obtaining keys from the employees of the Petrol Pump the doors of these trucks which were locked from the outside were opened and the

detenues drivers Bansant Singh and Bikramjit Singh were taken out. Though, initially the employees, salesman Raj Kumar and attendant Arjun Kumar, security officials showed ignorance about keys of these vehicles and on insistance by the Warrant Officer after getting instructions from respondent No.4 the above said Raj Kumar has handed over the keys of these vehicles and it was thereafter, vehicles and the drivers were got released and it was also discovered that battery of one of the vehicle PB-08-BT-8885 was missing and after arranging for the same and securing mobile handset of both these detenues from the officials of the fuel station which were in their possession the same was handed over to them. The driver has testified before the Warrant Officer that they were rounded up after intercepting them and forcibly brought to the fuel station.

From the rival stands of the two sides, it is much in abundance clear that there was some sort of dispute between the two sides may be over money which the respondent No.4 claims to be Rs.10,69,693.61/- for the fuel prices and may be because as per the stand of the petitioner side that he has strained business relations with the respondent No.4 which has led to this heart burning. But from it all, it clearly ensues and as is reflected from the report of the Warrant Officer that respondent No.4 who as per his own stand in the submissions happens to be the brother of the local ruling party, MLA, thus, an influential person has sought to take recourse to illegal means and by mere use of brute force and intimidatory tactics has illegally confined not only the vehicles of the petitioner as well as his drivers and, therefore, by that act have certainly acted contrary to the law. Being a pure case of custodial and illegal

detention by taking the law in their own hands and that too by the person having connections with the ruling party certainly is a clear cut case of abuse of powers symbolic of wild west. Such like situation in the State and so elsewhere, whereby, such an innocent and weak persons are subjected to torture, cruelty, inhumane and degrading treatment by powerful persons having political connections, certainly needs to be deprecated. Though, by virtue of Article 21 of Constitution of India, way back in 1950, it was mandated that no person shall be deprived of his life and personal liberty except as per the procedure prescribed by law. The fact that a sacred and cherished right of personal liberty which has an important role to play in the life of every citizen in the case of the present detainees, poor drivers of the petitioner has been put to hold and, therefore, the conduct of the private respondents certainly to the mind of this Court is dehumanising not only a torture and assault of their dignity, personal liberty and which has its own repercussions on their future life and that of their existence. Being a case under the writ jurisdiction the Court need not insist on establishing the case of the petitioner beyond every reasonable doubt as is sought to be canvassed by the counsel for the respondents but keeping in view the stand of the private respondents, report of the Warrant Officer there is hardly any such necessity to call for any such evidence and the illegal act and conduct by and at the behest of respondent No.4 leaves no scope to doubt the very anarchy and authoritarian dictatorial barbarism. Thus, seeking support from **2005(2) RCR (Cri) 876 SPS Rathore vs. State of Haryana and others** besides having recourse of law for damages by way of suit under the torts the private respondents owner and his employees detailed above cannot

escape their liability for such inhumane treatment to the persons so detained. At the same time, looking into the sensitivity involved and taking it to be the duty of this Court to ensure rule of law is taken to its logical conclusion and to deter such like persons from carrying on such an illegal and barbaric act in future and assault on human dignity impels this Court to exercise its powers and to allow the instant petition, thereby, awarding to each of these detenues a sum of Rs.2 lacs each as compensation which shall be payable by respondent Nos. 4, 5 and 6 to detenues Basant Singh and Bikramjit Singh in equal shares within the period of two months from the date of receipt of copy of this order else reserving their right to recover this amount jointly and severally from respondents No.4, 5 and 6 as arrears of land revenue. On account of failure of these respondents to pay this amount within this period of two months they will be entitled to pay interest @ 9% per annum from the date of filing of petition till realisation of the amount. However, it is made clear that this amount shall be inclusive of any other damages that might be awarded to these persons by any other Court of law. Besides this, Senior Superintendent of Police (Rural), Jalandhar is directed to register an FIR pertaining to case of illegal detention and torture of these two unfortunate drivers at the hands of private respondents No.4, 5 and 6 in accordance with law and to submit its report to this Court within a period of one month after receiving copy of this order.

(FATEH DEEP SINGH)
JUDGE

November 22, 2016

aarti

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No