

203 (2 Cases)

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

CRM-M-33172-2014 (O&M)

Date of decision : 24.07.2017

SHAMINDER SINGH

..... Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

..... Respondents

CRWP-1106-2014 (O&M)

BALWINDER KAUR

..... Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajesh K. Dadwal, Advocate,
for the petitioner(s) in both the petitions.

Mr. C.L. Pawar, Sr. DAG, Punjab.

Mr. A.S. Virk, Additional Public Prosecutor,
U.T., Chandigarh.

Mr. H.P.S. Rahi, Advocate,
for respondents No. 8 to 13 in CRM-M-33172-2014.

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of two connected petitions bearing No. CRM-M-33172-2014 and CRWP-1106-2014.

In CRWP-1106-2014, reply by way of an affidavit of Sh. Balkar Singh, PPS, Assistant Commissioner of Police (North), Police Commissionerate, Amritsar City, on behalf of respondents No. 1 to 3 has been filed in the Court today. The same is taken on record.

Criminal Writ Petition No. 1106 of 2014, was filed by Balwinder Kaur, mother of detainee-Shaminder Singh, stating that his son has married one Harpreet Kaur on 04.07.2014 and that both of them had filed a criminal petition bearing No. CRM-M-23871-2014 before this Court for protection of their life and liberty which came up for hearing on 17.07.2014.

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However, on 16.07.2014, respondents No. 4 to 10, who are the family members of Harpreet Kaur, picked up both the petitioners from Mohali. At that time one person was in Police uniform and the Illaqa Police was not informed. Now, they are in illegal custody of respondents No. 3 to 10. Respondent No. 3 is the SHO of the Police Station Sadar, District Amritsar. In the said petition, Warrant Officer was appointed who visited the Police Station Sadar, Amritsar where Shaminder Singh was found and thereafter got released by the Warrant Officer. However, Harpreet Kaur was not found there. Thereafter, Warrant Officer has visited the house of the parents of the Harpreet Kaur but the door of their house was locked. He further shouted the name of Harpreet Kaur but there was no response. Hence, the report was submitted.

In the second criminal petition bearing No. CRM-M-33172-2014 filed by Shaminder Singh under Section 482 Cr. P.C. for registration of an FIR against respondents No. 5 to 15, who in connivance with each other firstly kidnapped the petitioner and his wife Harpreet Kaur from Chandigarh and thereafter confined the petitioner in the lock up of Police Station without registering any DDR, as per the report of the Warrant Officer filed in CRWP-1106-2014. Further direction is being sought for protecting of life and liberty of the petitioners at the hands of respondents. In the said petition, it is claimed that Shaminder Singh had married Harpreet Kaur on 04.07.2014 against the wishes of her parents and that they left Amritsar for Chandigarh and took a room in a Hotel Swagat, Ekta Market, Attawa, Sector 42-B, Chandigarh, near Hockey Stadium at about 3.15 P.M. on 15.07.2014. He further claims that he had filed a protection petition

bearing No. CRM-M-23871-2014 for protection of their life and liberty. He further stated that on 16.07.2014 at about 9.45 p.m., private respondents No. 8-15 forcibly picked-up the petitioner and his wife from Hotel Swagat, Sector 42-B, Chandigarh. It is stated that father of the petitioner's wife who was in Police uniform accompanied by other private respondents had badly beaten up the petitioner and his wife and forcibly kidnapped them. They also wanted to take away the articles belonging to the petitioner and his wife, lying in the hotel, but the hotel people did not allow them. On the written request of respondent No. 10, 14 and 15 to the hotel that they are taking the custody of the petitioner and his wife, and now they are responsible for the same. The incident was also captured in CCTV camera of the said Hotel. Copy of the writing is also annexed at (*Annexure P-1*). Thereafter, the petitioner and his wife were taken to Amritsar and custody of the petitioner was handed over to the respondents No. 5 to 7 and the petitioner put behind the bars. Thereafter, the petitioner also states about his recovery by the Warrant Officer. He also claims that the private respondents are pressurizing his wife Harpreet Kaur to make statement against him and his family members so that they can be involved in a false case under Sections 376/366/364 IPC.

It comes out that the State has filed the reply in both the present petitions whereas the private respondents have not submitted any reply.

I have heard the learned counsel for both the parties and have carefully gone through the case files.

The report of the Warrant Officer alongwith reply of the State show that the stand of the State is that Shaminder Singh was threatening to commit suicide outside the house of Sukhdev Singh-private respondent,

father of Harpreet Kaur. Therefore, Sukhdev Singh had handed over him to the Police which kept him in police station without recording any DDR. Thereafter, it is alleged by the official respondents that Shaminder Singh had tried to run away from the Police Station to commit suicide by jumping before some moving vehicle and thereafter he was put in lock up.

At this stage, this Court will not go to the other aspects of the matter. The factual position is very clear. Some documents have also been filed indicating that Shaminder Singh and his wife Harpreet Kaur were picked up by or at the behest of the private-respondents from Hotel Swagat, Sector 42-B, Chandigarh. The fact also remains that Shaminder Singh was found in the illegal custody of the Police Station Sadar Amritsar and DDR was not recorded for detention of Shaminder Singh. I am of the view that the entire matter needs to be investigated in depth.

The cases of illegal detention by the Police are to be dealt with heavy hands. Learned State counsel stated that there were two police officials who were involved in the present case; Talwinder Singh, ASI and Kewal Singh, ASI. Both of them are stated to be suspended and departmental enquiry is stated to have also been pending against them. However, this Court is of the view that only the initiation of departmental enquiry in these circumstances is not sufficient. It being so, let an appropriate FIR be recorded, treating the present petition bearing No. CRM-M-33172-2014 as a criminal complaint and thereafter, let the matter be investigated by Crime Branch, Punjab with its Headquarters at Mohali to find out the truth. After finding out the truth, let Crime Branch determine the criminal liability on all

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or any of the official or private respondents and then take appropriate criminal action against that respondent(s) in accordance with law.

In the meanwhile, Superintendent of Police, SBS Nagar is directed to protect the life and liberty of Shaminder Singh and ensure that Shaminder Singh is not harmed by any of the respondents.

In view of the foregoing discussion, both the petitions are accordingly disposed of.

(KULDIP SINGH)
JUDGE

July 24, 2017
Suresh Kumar

<i>Whether speaking / reasoned</i>	:	✓ Yes / No
<i>Whether Reportable</i>	:	✓ Yes / No