

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

**Crl. Writ Petition No.1059 of 2016 (O&M)
Date of Decision: January 24, 2017**

Gian Kaur

.....PETITIONER(s).

VERSUS

State of Punjab

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None for the petitioner.

Mr. Ashish Sanghi, D.A.G., Punjab.

SURINDER GUPTA, J.

A complaint was received in the office of Hon'ble the Chief Justice of this Court from Gian Kaur wife of Bhag Singh, resident of Nurpur Hakima, Tehsil Dharamkot, wherein she stated that her daughter Veerpal Kaur, who was married with Amandeep Singh, had accompanied one Manpreet Kaur on 18.05.2016 but did not return. When inquiries were made from Manpreet Kaur, she told her that Veerpal Kaur had gone with one Babbu Singh, son of Ranjit Singh, resident of Rajgarh Kubbe, PS Maur . She gave mobile number of Babbu Singh, but he could not be contacted.

The complaint was registered as criminal writ petition (habeas corpus) and notice was issued to the State. Police registered an FIR No.123 dated 16.08.2016 under Sections 363, 366 and 120B IPC at Police Station Dharamkot and then traced Veerpal Kaur on 15.11.2016. Her statement under Section 161 Cr.P.C. was recorded, wherein she stated that she eloped

with Babbu Singh of her own and was residing with him at Ward No.1, Model Town, Sangrur, Distt. Sangrur of her own volition as his wife. Thereafter, she was produced before the Court on the next day and her statement under Section 164 Cr.P.C. was also recorded, wherein she again reiterated the same facts. The police, however, arrested Babbu Singh and moved an application before the Court for his judicial remand. The matter came to the notice of Coordinate Bench and an order was passed on December 2, 2016 as follows:-

“Supplementary affidavit of Lakhvir Singh, DSP, Dharamkot, District Moga has been filed, as per which the missing girl Veerpal Kaur was recovered on 15.11.2016 and her statement was got recorded on 16.11.2016 under Section 164 of the Cr.P.C before the Illaqa Magistrate, Moga. As per that statement, the detenue had stated that she had run away of her own accord and was living with one Babbu Singh as husband and wife. Even from the application, it transpires that the girl is a major.

I asked the police official who is present in Court, namely, ASI Jaipal Singh, as to what was the statement given by the detenue before the Magistrate, he states that though he does not have the copy of the statement yet in that statement also she stated that she was living with Babbu Singh of her own volition. I find from the report that she was sent to the observation home. ASI Jaipal Singh has also informed the Court that the said Babbu Singh has been arrested. In my opinion, these two actions cannot be justified because if an adult person is voluntarily living with some body there can be no justification for keeping them in custody. Let personal affidavits of the Illaqa Magistrate and the SSP Moga be

filed on or before the next date.

Adjourned to 15.12.2016. Meanwhile, even though no prayer has been made in this behalf, in my considered opinion, custody of the detenue and Babbu Singh is prima facie illegal. In the circumstances, exercising suo-motu powers under Article 226 of the Constitution of India, both Veerpal Kaur and Babbu Singh are directed to be released on bail on their furnishing personal bonds forthwith, if the statement of Veerpal Kaur made under Section 164 of the Cr.P.C is correct.

Copy of this order be given dasti to learned Addl. AG Punjab under the signatures of the Bench Secretary.”

Learned State counsel has submitted that for illegal arrest of Babbu Singh and retaining him in custody for 20 days, police has initiated departmental inquiry against Inspector Jasbir Singh and ASI Jaipal Singh. After conclusion of departmental inquiry wherein they were found responsible for illegal detention of Babbu Singh and keeping him in custody for 20 days, one year of service of Inspector Jasbir Singh and ASI Jaipal Singh, along with one increment was forfeited permanently. In the affidavit submitted by Gurpreet Singh Toor, IPS, Senior Superintendent of Police, Moga, it is submitted that on the basis of statement of Veerpal Kaur recorded under Section 161 Cr.P.C., no offence against Babbu Singh or Veerpal Kaur, is made out and a cancellation report has been filed in the Court.

Learned State Counsel has sought closer of the case as Veerpal Kaur is now residing with Babbu Singh of her own volition, but could not justify arrest of Babbu Singh by police and his detention for 20 days.

It is a case where the police has acted in a very careless manner and detained Babbu Singh, who remained in custody for 20 days. Though the police has taken action against erring police officials but the question which remained unanswered is about the fate and ignony of Babbu Singh, who had to bear the trauma of his arrest, production in Court as accused and custody in jail. When the police from the statement of Veerpal Kaur recorded under Section 161 Cr.P.C. by ASI Jaipal and under Section 164 Cr.P.C. recorded by Magistrate, copy of which was taken by ASI Jaipal, came to know that no criminal case is made out against Babbu Singh, there was no reason or occasion for the police to arrest him or to seek his judicial remand for 14 days.

Keeping in view the above facts, I am of the view that Babbu Singh requires to be duly compensated for his harassment by the police. For his illegal detention by the police, I allow him a compensation of ₹1 lac, which shall be paid by the Punjab State to him within a period of two months.

Copy of this order be sent to Chief Secretary to Government of Punjab for compliance and sending the report. It is, however, made clear that award of compensation to Babbu Singh will have no effect on his availing other legal remedies available to him.

January 24, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***