

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

CRWP-151-2017(O&M)

Date of decision: 20.9.2017

Rajinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Tirath Singh Grewal, Advocate
for the petitioner.

Ms.Jaspreet Kaur, AAG, Punjab.

Mr.Gurcharan Dass, Advocate
for the detenue.

H.S. MADAAN, J.

A letter purported to have been sent by Ms.Rajinder Kaur Sandhu from Ludhiana with regard to illegal confinement and mental and physical harassment of her father-in-law Swaran Singh Sandhu, aged about 84 years, a year ago by his daughter Ms.Navdeep Kaur, an Australian citizen was received in this Court on the allegations that Swaran Singh Sandhu was admitted at Heavenly Palace, Doraha; that false cases were filed against her son Gurniwaz Singh, aged 8 years under the Maintenance of Aged People Act at Ludhiana, however, that case was

decided in favour of minor Gurniwaz Singh by SDM(C). The petitioner had contended that she had met her father-in-law at old age home a number of times, who expressed his wish to come back home; that the Deputy Commissioner had issued relevant orders after due enquiry; that she had gone to old age home with police personnel, medical team and Tehsildar for taking her father-in-law home but the doctor Incharge delayed the matter for four hours and did not allow her to meet her father-in-law independently, rather he was forced to give irrelevant statement under pressure of Mr.Dhanda, who claims to be counsel of her father-in-law. According to the petitioner, she is a widow taking care of two minor children and herself; that her father-in-law is in illegal custody of Heavenly Palace, Doraha under supervision of Dr.Sohi, who is directly responsible for all the happening and that the proceedings initiated in the name of her father-in-law against her minor son be stayed.

On receipt of this letter, it was treated as Criminal Writ Petition (Habeas Corpus). It was taken up on judicial side. Notice of motion was issued. Commissioner of Police, Ludhiana was directed to file affidavit in response to averments made in the petition vide order dated 9.2.2017. The case had been adjourned to 22.7.2017 but affidavit of Commissioner of Police, Ludhiana was not filed. At request of State counsel case was adjourned to 7.3.2017. On that day reply by way of affidavit of Sh.Varinderjeet Singh, PPS, Deputy Superintendent of Police, Payal, Sub-Division Payal, Police District Khanna, District Ludhiana was filed, copy of which was given to counsel appearing on behalf of the alleged detainee. At his request case was adjourned to 22.3.2017.

The petitioner had appeared through counsel and in terms of request of counsel for the petitioner for appointment of Court Commissioner to record statement of detinue whether he was living at Home as per his own free will and further for medical examination of detinue and for giving proper statement whether the detinue was fit to make a statement, Mr.Aditya Jain, Advocate was appointed as Court Commissioner to do the needful. He was directed to submit his report on or before the adjourned date i.e. 17.4.2017. This report was ultimately submitted in the Court on 9.8.2017.

I have heard learned counsel for the petitioner, learned counsel representing the alleged detinue as well as learned State counsel besides going through the record and I find that the assertions levelled in the petition that Sh.Swaran Singh Sandhu is being illegally detained in Heavenly Home, Doraha are not correct. As it comes out, Sh.Swaran Singh Sandhu is residing there voluntarily and is not being confined there against his wishes. It also comes out that he had transferred his property in the name of his grandson i.e. son of his pre-deceased son and petitioner Ms.Rajinder Kaur Sandhu. The litigation is stated to have taken place is pending between Sh.Swaran Singh Sandhu and minor son of petitioner through petitioner.

The purpose of writ petition under Section 226 of the Constitution of India in the nature of habeas corpus is to ensure that no person is being detained against his wishes. As it comes out and has been stated by alleged detinue through his counsel, he is living in that Heavenly Home of his own and as per medical reports submitted by the

doctors who had accompanied the Court Commissioner, he was found to be calm, conscious, well oriented to place and person lying in the bed comfortably though he could not walk without support due to old injuries but could understand oral command and give suitable reply, as such he was mentally fit.

Learned counsel for the petitioner has challenged that medical report contending that he is not in a fit state of mind and is being illegally detained. He has referred to a print out regarding Parkinson's disease taken out from Wikipedia and referred to authorities i.e. *Dilbagh Singh Versus Sawinder Kaur, 2011 AIR (Punjab) 38, Simranpreet Kaur @ Preeti Versus Harbans Singh and others, 2016(4) PLR 412, Santosh Kumar Versus Shaji, 2013 AIR (Kerala) 184, Avinash Chander Mookhy Versus General Public and others, 2014(3) R.C.R.(Civil) 1031* by a Co-ordinate Bench of this Court, *Biru Versus Nanhi, 2007(3) R.C.R.(Civil) 810* by Co-ordinate Bench of this Court and he has also referred to provisions of the Mental Health Act, 1987 arguing that Sh.Swaran Singh Sandhu being of unsound mind is unable to understand as to what is good or bad for him. Therefore, an inquiry be got conducted and some Guardian/next friend be got appointed. However, I am not impressed by these contentions for various reasons.

Firstly as per medical opinion available on the file referred supra Sh.Swaran Singh Sandhu is mentally alert and he is not shown to be suffering from any mental ailment. Secondly, if the petitioner has got any grouse in that regard, she can approach the Court of competent jurisdiction and such type of questions are not be determined in the

proceedings before this Court dealing with writ petition of habeas corpus.

Sh.Aditya Jain, Advocate, Court Commissioner in his report dated 3.4.2017 has observed that as per opinion of the doctors, accompanying him, Sh.Swaran Singh Sandhu is mentally fit, alert, clinically stable and fit to give statement. According to Sh.Aditya Jain, Advocate, he after receiving the medical examination report prepared by the doctors, had asked the alleged detainee that whether he has been detained or living in the Home as per his own free will, to which, he replied that he is living in the Home with his own free will and has not been detained by any one.

Thus, no further action in the matter on the part of this Court is called for.

The petitioner has filed an application for initiating enquiry against guilty persons and for grant of protection to the detainee along with petitioner and her two minor children. In view of the detailed discussion above, no further enquiry in the matter is required to be conducted. There is no occasion to grant any protection to detainee Sh.Swaran Singh Sandhu. As regards the protection sought by petitioner for herself and her two minor children, they may approach the law enforcement agencies in that regard. This application being without any merit is dismissed accordingly.

Finding no merit in the petition, the same stands dismissed.

20.9.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No