

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

**CRWP No.802 of 2017 (O&M)
Date of decision : September 05, 2017**

Harbhajan Singh

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ritesh Pandey, Advocate for the petitioner.

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

Mr. Manjit Singh, Advocate for respondent No.4.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J.

Harbhajan Singh S/o Phuman Singh, resident of Kotwala, Tehsil and District Rupnagar (Punjab) has filed this petition before this Court under Article 226 of the Constitution of India for issuing roving writ in the nature Habeas Corpus for recovery of detenues Din Mohamed S/o Shri Lal Din, Kuldeep Singh son of Shri Jeet Singh and Amandeep Singh son of Bhajan Singh, all are drivers of the petitioner. Petitioner owned three trucks. Din Mohamed was employed as driver in Truck No.PB-12T-9478, Kuldeep Singh was driver of truck No.CH-01TA-9678 and Amandeep Singh was driver of Truck No.PB-12T-5478. On 11.07.2017, at about 9.00

a.m., all the three detenues loaded sand stone in their trucks from JM Enterprises, VPO Sarsa Nangal, District Ropar to unload the same at Bhawanigarh, where a building of PGI Hospital, Sangrur was under construction. They reached there at 4.00 p.m., where respondent No.4 Vipin Kumar Sharma, President of Guru Teg Bahadur Truck Operator Union (Regd.), Bhawanigarh, District Sangrur (for short 'the Union'), along with other workers came and took the aforesaid three detenues alongwith their trucks and confined them at the Union.

Accordingly, the Warrant Officer was appointed by this Court, who submitted his report dated 13.07.2017 stating that on 12.07.2017 at about 9.55 p.m., he along with the police party headed by ASI Sukhjinder Singh visited the Union. The Chowkidar was called upon to open the gate of said Union. Then, he took a round of parking area of the said Union, where alleged detenues were found sleeping in the porch. The Trucks/Trippers, bearing registrations Nos.PB-12T-9478, PB-12T-5478 and CH-01-TA-9678 were also found parked there. On inquiry, Chowkidar Chaju Das, stated that those trucks were parked there since yesterday by the workers of the Union on the direction of the President of the Union. The keys of the trucks/trippers are with the workers of the Union. The detenues also disclosed to Mr. Resham Singh, Warrant Officer that they along with their vehicles were forcibly picked up by the workers of the Union from the road yesterday. Thereafter, the Warrant Officer went to the house of the President of the Union-respondent No.4, where two ladies came out of the house and gave him the mobile number of respondent No.4. He contacted respondent No.4 on mobile phone, who in turn told him that he is deputing a person,

namely, Parvinder Singh, who will soon come in the police station to meet him and will do the needful on his behalf. Accordingly, Parvinder Singh came and handed over the keys of the trucks and raised an objection, if the detainees want to take away their trucks. Parvinder Singh could not supply the registration copies of the said trucks. The detainees were, accordingly, set at liberty.

Vide order dated 14.07.2017, this Court issued notice to respondent No.4 as to why a criminal case be not registered against him for detaining the aforesaid three persons, their vehicles and registration copies of the vehicles, illegally.

Respondent No.4 appeared through counsel and filed objections to the report of Warrant Officer, stating that it is a false case and a conspiracy has been hatched and that he was out of city and has no knowledge of the incident. The drivers were sleeping in the Union. Only Chowkidar was there, who is 80 years old and cannot detain three persons.

I have heard learned counsel for the parties and have also carefully gone through the case file.

A perusal of the petition and the report of the Warrant Officer shows that the alleged trucks belong to petitioner Harbhajan Singh, who belongs to Rupnagar District. The trucks had gone to Bhawanigarh to deliver the sand stone, where building of PGI Hospital, Sangrur was under construction. All the aforesaid three persons along with their trucks were taken away by respondent No.4-Vipin Kumar Sharma, the President of the Union along with the help of the workers of the Union on 11.07.2017.

The aforesaid three persons along with their trucks were recovered by the Warrant Officer on the midnight of 12.07.2017. The aforesaid detenues had no reason to park their truck in the Union at Bhawanigarh. The fact that the keys of the truck were delivered to the Warrant Officer by one Parvinder Singh on the direction of Vipin Kumar Sharma, respondent No.4, shows that the keys of the trucks were either with respondent No.4 or with his workers, at his instance. He knew that the trucks were detained in the Union. It is common knowledge that the truck Unions do not allow to the outside trucks to operate in their area. The registration copies of the trucks have not been delivered so far.

Learned counsel for respondent No.4 states that the parties have compromised the matter, therefore, the matter should be dropped.

However, I am of the view that an offence against the State has been committed, the law of the land has to prevail. If respondent No.4 has committed the crime along with his workers, he has to face prosecution.

Accordingly, it is ordered that an FIR under the appropriate Section be registered at Police Station Bhawanigarh against Vipin Kumar Sharma, President of the Union and his unknown workers for kidnapping the detenues Din Mohamed, Kuldeep Singh and Amandeep Singh along with their trucks and keeping the keys in his possession and also unlawfully detaining the registration copies of the trucks. The officer not below the rank of Sub Inspector shall be deputed to investigate the matter. Let the investigation be carried out expeditiously and final report be presented before the learned Illaqa Magistrate.

The copy of this order be sent to the Senior Superintendent of Police, Sangrur and S.H.O., Bhawanigarh along with the copy of the petition and the report of the warrant officer for treating these as complaint for the registration of the FIR and investigate the same.

The present petition is, accordingly, disposed of.

(KULDIP SINGH)
JUDGE

September 05, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No