

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

CRWP-1617-2016

Date of decision:-23.5.2018

Jai Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Ashok Bhardwaj, Advocate
for the petitioner.

Mr.Sulinder Kumar, AAG, Haryana.

Mr.Rupinder Thakur, Advocate for
Mr.Vikram Punia, Advocate
for the respondent No.5.

H.S. MADAAN, J.

This criminal writ petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been filed by petitioner Jai Parkash for payment of compensation to the tune of Rs.5 lakhs for illegal detention besides craving for issuance of directions to State of Haryana and Superintendent of Police, Sonipat, arrayed as respondents No.1 and 2, respectively, in the petition to take appropriate, legal and disciplinary action against Inspector Sombir Singh, SHO PS Kundli, District Sonipat (respondent No.3) and SI Pardeep, Police Station

Kundli, District Sonipat (respondent No.4) for illegally detaining the petitioner by adding Section 216 IPC in FIR No.415 dated 25.10.2016, under Sections 354-A, 452, 506 IPC with Section 216 IPC added later on, Police Station Kundli, District Sonipat at mere asking of Shyam Lata @ Shyamo @ Hem Lata (respondent No.5).

Inter alia in the petition, it is contended that respondent No.5 - Shyam Lata @ Shyamo @ Hem Lata had lodged FIR in question on false and concocted grounds against Naresh Kumar, brother of the petitioner, though Naresh Kumar and his wife had submitted various representations to the higher authorities and Inspector Sandeep Kumar had been transferred from Police Station Kundli, District Sonipat; that Naresh Kumar had approached this Court seeking pre arrest bail and this Court while issuing notice of motion for 17.1.2017 had stayed his arrest vide order dated 5.12.2016, however, respondent No.5 got the petitioner arrested on 6.12.2016 by adding Section 216 IPC; that the petitioner was produced before Judicial Magistrate Ist Class, Sonipat on 6.12.2016 where he was admitted to bail, though on furnishing and acceptance of bonds, he was released on 7.12.2016, therefore, he is illegally detained; that though offence under Section 216 IPC is bailable but respondents No.3 and 4 did not release him and rather demanded bribe of Rs.75,000/-. The petitioner prays that the petition be accepted.

On notice, the respondents put in appearance through counsel.

Respondents No.1 to 4 have filed a joint reply in the form of affidavit of DSP, Ganaur wherein it is contended that the petition is not

maintainable and is liable to be dismissed since the petitioner has not approached the Court with clean hands and has submitted distorted facts to make out a case in his favour; that as a matter of fact FIR no.415 dated 25.10.2016 for the offences under Sections 354-A, 452, 506 IPC and Section 216 IPC was got registered by Shyam Lata @ Shyamo @ Hem Lata (respondent No.5) against brother of petitioner alleging that on 24.10.2016 at about 9:00 p.m. when she was all alone at home then Naresh Kumar forcibly entered her house, caught hold of her hand and started teasing her and dragged her inside the room; that the complainant raised hue and cry, which attracted her sister-in-law Anita and some persons from neighbourhood; that on their arrival Naresh Kumar ran away from there house leaving behind his motorcycle on which he had come to her house; that the complainant had informed the police but some time was sought to settle the dispute in Panchayat; that on 25.10.2016, Panchayat had called Naresh Kumar and his family members but they did not come there; that thereafter, formal FIR was registered; that statement of the complainant was recorded under Section 164 Cr.P.C. in which she reiterated the allegations in the FIR; that during the course of investigation, Shyam Lata @ Shyamo @ Hem Lata (respondent No.5) submitted an application before the Investigating Officer on 27.11.2016 that Jai Parkash (present petitioner) handed over a sum of Rs.2,000/- to Naresh, husband of the complainant stating that he could do whatever was better to save his brother Naresh from being arrested by the police, thus disclosing an offence under Section 216 IPC against him, which was rightly added; that Jai Parkash was arrested on 6.12.2016 and produced

before Judicial Magistrate Ist Class, Sonipat on the same day; that he was ordered to be released on bail since the offence was bailable but petitioner failed to furnish the bail/surety bonds, as such, he was sent to jail; that on furnishing of necessary bonds on 7.12.2016, which were accepted, he was released from custody on 7.12.2016. It is denied that order passed by Hon'ble High Court in the petition moved by Naresh Kumar was brought to notice of the police by any person. It is further denied that Jai Parkash was illegally detained by the police. According to such respondents, no case for grant of any compensation to the petitioner or taking of any action against any police official is made out. The allegations regarding demand of bribe by the police officials was also denied, while craving for dismissal of the petition.

Latest status report by way of affidavit of DSP, Sonipat has also been filed, which is perused.

I have heard learned counsel for the parties besides going through the record and I find that the petitioner was arrested for an offence under Section 216 IPC and produced before the Magistrate, who ordered his release on bail but since the bonds were not furnished by him, therefore, he was sent to jail and on furnishing of requisite bonds by the petitioner on 7.12.2016, which were accepted, he was released. As such, it can certainly be not taken to be a case of illegal detention by respondents No.3 and 4 much less at the instance of respondent No.5. There is nothing on record to show that respondent No.5 is so influential or powerful so as to make the local police act as per her desires going to the extent of indulging in illegal acts. Since no illegal detention of petitioner by

respondent No.3 and 4 comes out to there, as such, the petitioner is not entitled to get any compensation or get any direction issued for taking of necessary action against the respondents No.3 and 4 on administrative side.

I do not find any merit in the petition and the same stands dismissed accordingly.

23.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No