

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-4499-2019 (O&M)
Date of Decision: 16.12.2019

Ram Rattan

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Deepanshu Matya, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner assails an order dated 29.6.2016 passed by the Superintendent of Police, Palwal (forming part of Annexure P-1) and in terms of which respondents no. 4 and 5 (police officials), earlier placed under suspension, have been reinstated.

Counsel submits that officials of C.I.A. Staff, District Palwal had illegally abducted minor son of the petitioner in the year 2016 and had confined him in a room of the Anti Vehicle Theft Staff. At that point of time, petitioner was compelled to approach this Court by way of filing of a Habeas Corpus Petition i.e., CRWP No. 429 of 2016 and in which orders were passed appointing a Warrant Officer. On 4.4.2016, the Habeas Corpus Petition was taken up for hearing and it was noticed that as per report of the Warrant Officer the detainee namely Narayan was found detained in the custody of the Anti Vehicle Theft Staff, Palwal even though, no F.I.R. had been registered against him. As per report of the Warrant Officer, one Sub-Inspector, Mohammad Iliyas had informed him that the detainee was not wanted in any case and such he was released from police custody. In the Habeas Corpus Petition, one D.S.P. Mauji Ram had informed this Court on

4.4.2016 that Sub-Inspector Mohammad Iliyas and Constable Mubarik (respondents no. 4 and 5 herein) had been placed under suspension and that a departmental enquiry already stood initiated. However, this Court observed that since it was a case of illegal detention, a reply be filed as to why F.I.R. be not registered against the defaulting officials. Thereafter, matter was taken up on 2.6.2016 and a reply was filed on behalf of the State reflecting that F.I.R. No. 202 dated 7.4.2016 under Sections 343/34 I.P.C. had been registered at Police Station, City Palwal against respondents no. 4 and 5 herein and that they had been arrested. Taking notice of such information, the Habeas Corpus Petition was disposed of on 2.6.2016 by this Court in the following terms:-

“Kuldip Singh, J. (Oral)

Reply filed behalf of the State shows that FIR No. 202 dated 7.4.2016 under Sections 343/34 IPC has been registered at police station City Palwal against SI Mohd Illiyas and Constable Mubarik and they have been accordingly arrested.

It being so, no further action is required to be taken by this Court.

The petition is accordingly disposed of.

02.06.2016
gk

(Kuldip Singh)
Judge”

Learned counsel has vehemently argued that as per report of the Warrant Officer appointed by this Court son of the petitioner had been illegally detained. In the Habeas Corpus Petition it has been noticed by this Court that respondents no. 4 and 5 have been placed under suspension and departmental proceedings have been initiated. It is urged that it is with the intervention of this Court that the F.I.R. No. 202, dated 7.4.2016 had been registered against private respondents. It is contended that it is only after

this Court having recorded its satisfaction as regards the action taken against respondents no. 4 and 5 i.e., an order of suspension, initiation of departmental enquiry and registration of F.I.R. that the Habeas Corpus Petition had been disposed of and accordingly the action of reinstating such police officials, is arbitrary and unjust. Further asserted that after respondents no. 4 and 5 were reinstated, an attempt was made to abduct the minor son of the petitioner and for which representations have been preferred. It is stated that the petitioner is living under constant threat and fear of the private respondents.

Having heard the counsel for the petitioner at length this Court is of the considered view that there is no infirmity in the impugned order dated 29.6.2016 (Annexure P-1) and in terms of which the private respondents have been reinstated.

Needless to observe that respondents no. 4 and 5 had been placed under suspension without prejudice to the result of the departmental enquiry that stood initiated and the criminal case bearing F.I.R. No. 202, dated 7.4.2016 registered at Police Station, City Palwal. Since an advance copy of the petition already stood served upon the State of Haryana, Mr. Siddharth Sanwaria learned D.A.G., Haryana upon instructions from A.S.I. Sanjay Kumar, P.S. City Palwal has informed the Court that the departmental proceedings have since culminated and in which respondents no. 4 stands exonerated and in so far as respondent no. 5 is concerned, he has been held guilty and a major penalty of stoppage of one annual increment with cumulative effect has been imposed. In so far as F.I.R. No. 202, dated 7.4.2016 is concerned, Court has been informed that after presentation of the final investigation report, charges have been framed

against both the respondents and they are as of date facing trial.

The findings of the departmental enquiry exonerating respondent no. 4 is not a subject matter of challenge in the instant writ petition. Even as regards respondent no. 5, the departmental proceedings have already drawn to an end and have led to the imposition of a major penalty upon him.

Under such circumstances there could be no valid justification for continuation of an order of suspension.

In the criminal proceedings respondents no. 4 and 5 are facing trial at the hands of the competent court.

The assertion raised on behalf of the petitioner as regards apprehending threat to his life and liberty is concerned, the same already stands redressed by virtue of order dated 20.2.2018 passed by this Court while disposing of CRM-M No. 44581 of 2017 (Ram Rattan Vs. State of Haryana and Others.) and whereby directions already stand issued to the Commissioner of Police, Faridabad to examine the threat perception faced by the petitioner as also his family members and thereafter, to take necessary steps as deemed fit.

In so far as the allegation and assertion made by counsel of an attempt having been made to abduct his son subsequent to the private respondents having been reinstated in service, it would be open for the petitioner to resort to his remedies as may be available in accordance with law.

No intervention in the impugned order of reinstatement of private respondents no. 4 and 5 is warranted.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

16.12.2019
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No