

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRM M-48854 of 2017 (O&M)

Date of Decision: 15.05.2019

Manpreet Singh @ Mani

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr. D.S. Sandhu, Advocate for the petitioner
Mr. Sandeep Kumar, DAG, Punjab

MAHABIR SINGH SINDHU, J (ORAL)

Present petition has been filed under Section 482 Cr.P.C. for quashing of impugned FIR No.75 dated 16.04.2017 under Sections 379-B, 411 IPC, registered at Police Station Shimlapuri, District Ludhiana, along with all consequential proceedings resulting therefrom and further to pass any order or direction as this Court may deem fit in the facts and circumstances of the case.

Above FIR was registered against the petitioner on the basis of some secret information to the effect that he is an habitual snatcher and today going towards Shimlapuri side to sell the snatched phones; if a raid is conducted, heavy quantity of snatched items can be recovered from him.

As per the case of the petitioner, he was illegally detained by CIA-I Staff, Ludhiana, on 11.04.2017 around 6.00 p.m. and his father filed a Habeas Corpus petition before this Court, which came up for hearing on 13.04.2017 and while issuing notice of motion for 19.04.2017, a Warrant Officer was appointed. Thereafter, on 28.04.2017, this Court directed the Chief Judicial Magistrate, Ludhiana, (for short 'CJM, Ludhiana') to hold an

inquiry into the entire matter. In pursuance of the order of this Court, CJM, Ludhiana, submitted a report dated 11.07.2017 and came to the conclusion that petitioner was subjected to illegal detention by the police officials before showing his arrest in the present FIR on 16.04.2017.

It is contended by learned counsel for the petitioner that FIR in question has been registered by the police officials just to cover up their illegal action and is the total misuse of powers against the innocent citizen in view of the report submitted by CJM, Ludhiana.

On the other hand, learned State counsel has opposed the submissions raised on behalf of the petitioner and contends that on completion of investigation in the matter, report under Section 173 Cr.P.C. has already been submitted and after framing of the charges, case is fixed for prosecution evidence and the petitioner will have a remedy at the appropriate stage to lead his defence before the learned trial Court.

Heard both sides and perused the paper-book.

Concededly, a Habeas Corpus petition was filed by the father of the petitioner before this Court in view of the suspicion that petitioner had been illegally detained by CIA I Staff, Ludhiana and which came up for hearing on 13.04.2017 and the following order was passed:-

“The present petition, for issuance of writ in the nature of Habeas Corpus has been presented at the residence today at 5.30 pm, during the vacation period and on account of the undersigned sitting on vacation duty.

It has been alleged that the son of the petitioner, namely, Manpreet Singh is in illegal detention of respondent No.3, SHO, Police Station CIA 1, Ludhiana

since 11.04.2017 from around 6 pm. It has been further alleged that there are no criminal case is pending against the detenue and neither he has been named in any criminal case till date. The averments have been supported by the affidavit of the petitioner.

Notice of motion for 19.04.2017.

Accordingly, keeping in view the above, a Warrant Officer is appointed, from the prescribed list, to visit the premises of respondent No.3 and to search and find out whether the detenue is in illegal detention or not or any other place pointed out by the petitioner. In case the Warrant Officer finds that there is a detention without any criminal case pending against the detenue, the said detenue will be set free. A report be submitted, on or before the next date of hearing by the Warrant Officer. The expenses including the travel expenses of the Warrant Officer will be borne by the petitioner.”

Thereafter, CJM, Ludhiana, was directed by this Court on 28.04.2017 to hold an inquiry into the matter and he submitted his report dated 11.07.2017, which reads as under:-

“As such, broad probabilities of the matter clearly indicate towards the veracity of the version of the applicant pertaining to illegal detention of aggrieved Manpreet Singh @ Manni from the evening of 11.4.2017 onwards, till showing the arrest of detenue on 16.4.2017. The matter can easily be clinched effectively and with a reasonable measure of certainty if detailed investigation is conducted into the same and voice samples of HC Baldev Singh and ASI Dalip Singh are obtained and matched with the recording of the conversations presented by the applicant Amarjit Singh. Further, effective assistance can be had through the details of tower locations of persons

concerned, at relevant time. However, in the light of preceding discussion and reasoning stated therein, undersigned is of a firm opinion that inquiry made into matter by the undersigned clearly shows that detenue aggrieved Manpreet Singh @ Manni was subject to illegal detention by the police officials before depicting his arrest in FIR No. 75/17 at P.S. Shimla Puri, Ludhiana, on 16.4.2017.”

Perusal of the relevant part of the report extracted hereinabove, clearly reveals that petitioner was illegally detained by CIA Staff, Ludhiana from 11.04.2017 till showing his arrest on 16.04.2017 in the above FIR and said report has not been questioned by the respondent till date.

Learned State counsel, on instructions from ASI Ranjeet Singh, who is present in Court, has failed to point out that petitioner is facing any other criminal case except the present one. Taking to be a worst case against the petitioner as per the averments made in Preliminary Submissions of the State, he was apprehended on 16.04.2017 and two mobile phones were recovered from his pocket. The affidavit also reveals that during further investigation it was found that out of the above two mobile phones, one was snatched by the petitioner from Nand Bahadur on 29.12.2016 and in this regard, his statement was recorded under Section 161 Cr.P.C., on 27.04.2017 i.e. after a period of 11 days of the arrest of the petitioner. In response to a pointed query by the Court, learned State counsel is not able to substantiate that any FIR or DDR was lodged at the instance of above Nand Bahadur regarding snatching of his mobile phone, at any point of time. Therefore, it is apparently clear that petitioner has been made a scapegoat and FIR has been registered by the police officials

just to save their skin from legal consequences that may follow on account of the illegal detention of the petitioner and the same can be termed nothing but blatant misuse of the police powers.

The concoction of the story perpetrated by the CIA Staff can be gauged from the police proceedings (P-1) itself, wherein it is mentioned that on the basis of secret information, the above FIR was typed by ASI Kashmir Singh himself, on the spot by using his private Laptop and printed with the help of inverter kept in his Car and thereafter, sent the same through PHG Gurmeet Singh to the Police Station for its registration. These fictitious narrations by the police personnel are beyond imagination and thus, cannot be countenanced at all.

Although, this Court while entertaining the petition under Section 482 Cr.P.C. for quashing of the FIR, is cautious enough not to scuttle the trial, but in a glaring case of misuse of powers by the police, like the present one, where petitioner is the helpless victim and the same is duly proved by a discreet inquiry conducted by Judicial Officer in the rank of CJM, cannot be a mute spectator to maintain the rule of law. The Court cannot ignore the material aspect of the case that petitioner is shown to have been arrested in this case on 16.04.2017 and granted bail by learned trial Court on 04.05.2017, thus, remained in judicial custody as well for approximately 20 days, apart from his illegal detention, without any fault. Also deserves to be mentioned that there is absolutely no material on record or in the police file to substantiate that petitioner snatched any mobile phone belonging to third person and the same was recovered from him at the time of his alleged arrest on 16.04.2017 or during investigation.

Therefore, the pendency of criminal proceedings on the basis of FIR in question would be misuse of the process of the Court, resulting into avoidable harassment to the petitioner. Still further, apart from facing the criminal prosecution before learned trial Court, firstly, a poor person i.e. father of the petitioner was forced to approach this Court by way of an Habeas Corpus petition on account of illegal detention of his son, and now the petitioner has come for quashing of the impugned FIR along with consequential proceedings, which is not an easy task for a common man to fight against the mighty police authorities who are ultimately nothing to loose in such type of cases being wholly maintained at the public exchequer.

Keeping in view the facts and circumstances discussed hereinabove, this Court is of the firm opinion that FIR in question is absolute misuse of the powers by the police officials based on non-existent allegations just to implicate the petitioner and to save themselves from the legal consequences that could follow on account of his illegal detention. Consequently, the present petition is allowed and FIR No.75 dated 16.04.2017 under Sections 379-B, 411 IPC, registered at Police Station Shimlapuri, District Ludhiana, along with all consequential proceedings resulting therefrom, are hereby quashed.

Since the detention of the petitioner with effect from 11.04.2017 till registration of the FIR on 16.04.2017 has been found to be illegal and he has suffered the ignominy of subsequent judicial custody on the basis of false implication, and which resulted into loss of self respect and dignity of a poor man, therefore, this Court deems it appropriate to

burden the State with exemplary cost of Rs.1 lac to be paid to the petitioner within four weeks from today and the same be recovered from the erring police official (s).

15.05.2019
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No