

CRWP-777-2019(O&M)

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

Criminal Writ Petition No.777 of 2019 (O&M)

Reserved on : February 20, 2020

Date of Decision: October 06, 2020

Parneet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. J.S.Bhatti, Advocate for the petitioner.

Mr. H.S.Grewal, Addl. A.G., Punjab.

Ms. Nisha, Advocate for Mr.S.S.Sarwara, Advocate
for respondents No.4 and 5.

HARINDER SINGH SIDHU, J.

1. This reference has been listed before a Division Bench pursuant to the order dated 09.09.2019 of the Ld. Single Judge. The facts of the case have been extensively set out in the order which is reproduced below:

“This criminal writ petition was filed for issuance of writ in the nature of habeas corpus to set detenues namely Smt.Harvinder Kaur wife of Sh.Parvinder Singh and her sister namely Ms.Rupinder Kaur daughter of Sh.Parvinder Singh, free and to produce them before this Court after conducting their medical examination from Civil Surgeon or any other competent authority, as the detenues were claimed to have been illegally detained by respondents No.2 to 5.

A warrant officer was appointed vide order dated 04.09.2019. As per report of the Warrant Officer, he visited the police station City Ropar at 7.20 p.m. on 04.09.2019. The main

gate of the police station was got opened. He then entered in the MHC room. He asked for roznamcha, which was stated to be computerized. Thereafter he visited the lockup but found nobody inside the lockup. Then, the Warrant Officer along with petitioner, checked adjoining room. There he found two ladies sitting on the bed along with a lady constable namely Rajwant Kaur. The petitioner identified the ladies as her mother and sister. The Warrant Officer asked them as to how they reached police station and what they were doing there. Harvinder Kaur stated that she and her daughter Rupinder Kaur were brought there by the police personnel of Ropar police station from their village on 02.09.2019 at 11.30 p.m. She also informed that her husband was involved in a case which was registered at Police Station Sadar Morinda under Section 302 IPC and as he was absconding they were not living at their residence. A theft had been committed at their house and they had gone to Police Station Morinda along with their Advocate to lodge complaint. The SHO, Morinda along with police party went to their house. Harvinder Kaur also stated that she and her daughter were brought to the police station to provide them protection. Rupinder Kaur while acknowledging that the police party had helped in rescuing them from crowd and family members of Surinder Singh stated that they had been detained in the police station for more than two days. The police was enquiring again and again about her father namely Parvinder Singh.

The Ld. Single Judge concluded that the report of the Warrant Officer showed that both the detenues had been detained in the police station City Ropar, illegally without following any procedure as per law. Even if it was accepted that some persons had tried to cause harm to them, even then, both of them could not be kept in the police station for two days without even making entry in the roznamcha and also without informing the District/Illaqa Magistrate. The detenues had not been produced before any Court of law, which clearly show

that they had been illegally detained in the police station to procure the presence of Parvinder Singh in a murder case.

Holding that it was a gross violation of fundamental rights of the citizens it was opined that action needed to be taken against the erring officials and the detainees needed to be compensated. The matter was referred to a larger Bench for issuing guidelines/ issuing directions etc. to protect the fundamental rights of the citizens.”

2. In the reply filed by way of affidavit of Assistant Superintendent of Police, Sub-division Rupnagar it has been stated that the police officers of Police Station City Rupnagar had not illegally detained the alleged detainees.

3. It is stated that on 02.09.2019, one complaint by Harwinder Kaur (alleged detainee) was received in Police Station, Morinda, District Rupnagar in which she stated that the articles lying in her house were being stolen by Simranjit Singh, Kaka Singh, Sodhi Singh etc. On this SI Simranjeet Singh along with other officials, aforesaid Harwinder Kaur and her daughter Rupinder Kaur went to the spot on his official vehicle PB-12-M 6619. On reaching the spot, SI Simranjeet Singh came to know that a case/ FIR No.55 dated 25.06.2019 regarding the murder of Gurpreet Singh @ Gopi had been registered under section 364/302 IPC P.S. Kurali, District SAS Nagar on the statement of one Surinder Singh against Palwinder Singh, husband of Harwinder Kaur and the father of the petitioner. Palwinder Singh was evading his arrest. At around 7.30 pm, when SI Simranjeet Singh along with other officials was inspecting the spot, Kaka Singh s/o Parkash Singh, Nagar Singh s/o Karnail Singh, Gorkha s/o Ram La, Shinda Singh s/o Parkash Singh, all residents of Bamnara along with 15-20 unknown women

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and 20-25 unknown men came there and started abusing and beating Harwinder Kaur and Rupinder Kaur. The crowd did not let SI Simaranjeet Singh, other officials and Harwinder Kaur and Rupinder Kaur to come out of the house. Kaka Singh etc. attacked ASI Darshan Singh and the police party. ASI Darshan Singh was injured and his uniform was torn. SI/SHO informed the Deputy Superintendent of Police, Chamkaur Sahib on phone, upon which SI Sunil Kumar SHO Police Station, City Morinda, along with police force, SHO Chamkaur Sahib, Inspector Gursewak Singh along with police force and Sukhjeet Singh, Deputy Superintendent of Police, Chamkaur Sahib reached the spot. Thereafter, the Senior Superintendent of Police, Rupnagar and Superintendent of Police, Headquarter, Jagjit Singh Jhala, Superintendent of Police Alam Vijay Singh also reached the spot. Duty Magistrate Puneet Kasai, Naib Tehsildar, Morinda and Mankamal Singh, PCS, Sub- Divisional Magistrate, Shri Chamkaur Sahib also reached there. Even then the mob wanted the custody of Harwinder Kaur and Rupinder Kaur and kill both of them. The police under the protection of female police officers tried to rescue Harwinder Kaur and Rupinder Kaur from the house, upon which the mob attacked them with sticks and stones with intention to kill both the women. Failing in all the efforts, the Duty Magistrate ordered Lathi Charge on the crowd in order to save the lives of Harwinder Kaur and Rupinder Kaur. The mob caused damage to the government and private vehicles as well. After lot of struggle both Harwinder Kaur and Rupinder Kaur were rescued from the spot. The police registered FIR No.55 dated 03.09.2019 under sections 307, 452, 342, 353, 186, 332, 506, 509, 148, 149 IPC at Police Station Morinda, District Rupnagar against Kaka Singh, Naagar Singh, Gorkha, Shinda Singh and unknown persons.

4. It is stated that it was not a case of illegal detention. Both Harwinder Kaur and Rupinder Kaur were rescued by the police from the spot in the presence and under the supervision of the Senior Police Officers, Duty Magistrate, Sub Divisional Magistrate as mentioned above. It was in good faith and in order to protect their lives from angry mob, they (the alleged detainees) had been permitted to stay back in Police Station City Rupnagar until the situation got normalized. The need of the hour at the relevant time was to give complete protection to the alleged detainees namely Harwinder Kaur and Rupinder Kaur without taking any risks. Furthermore, both Harwinder Kaur and Rupinder Kaur in their statements nowhere stated any kind of maltreatment or harassment meted out to them in Police Station.

5. We have heard Ld. Counsel for the parties.

6. As observed by the Ld. Single Judge even if it is accepted that some persons had tried to cause harm to the detainees, even then, both of them could not be kept in the police station for two days without even making entry in the roznamcha and also without informing the District/Illaq Magistrate. Their continued detention cannot but be termed as illegal.

7. If such an action is condoned it would be prone to grave misuse. The requirements of law and the procedures have to be strictly complied with.

8. It is well settled that in appropriate cases courts can award compensation for illegal detention.

9. Accordingly, in the facts and circumstances of this case the respondent- State is directed to pay a compensation of Rs.1,00,000/- (Rupees One lakh) each to detainees Harwinder Kaur and Rupinder Kaur.

The same may be recovered from the erring officials who had kept them under detention.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 06, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No