

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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CRWP-833-2019

Date of decision: 27.01.2020

Sikander Kumar

.....Petitioner

Versus

State of Punjab and Others

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : None for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondents No. 1 to 3

None for respondent No. 4

ARUN KUMAR TYAGI, J (ORAL)

The petitioner filed the present petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for release of detenue Sunder from the illegal custody of respondent No. 4 by appointment of a Warrant Officer.

Vide order dated 23.09.2019 passed by Co-ordinate Bench of this Court notice of the petition was given to the respondents No. 1 to 3.

In response thereto Mr. Rakesh Aggarwal, Commissioner of Police, Ludhiana filed his affidavit on behalf of respondents No. 1 to 3.

In his affidavit, Mr. Rakesh Aggarwal, Commissioner of Police, Ludhiana has submitted that the detenue Sunder had not been illegally confined and the allegations levelled by the petitioner regarding his illegal detention were not substantiated during the course

of enquiry conducted by SHO Police Station Focal Point, Ludhaina as well as Assistant Commissioner of Police (Industrial Area-A), Ludhaina. Paragraphs 3, 4 and 5 of the reply which are relevant for disposal of the present petition are reproduced as under :

“ 3.Sunder s/o Puran was working as a brick kiln labourer at S.K. Brick Kiln Jalalabad, District Moga and he dishonestly took Rs. 3,20,000/- from Avtar Singh and Chandan Grover owners of GD Bricks Jalalabad, District Moga in 9 installments for preparing 50000 bricks per day. In this regard, he also executed a receipt on the letter pad of GD bricks by putting his thumb impression. He promised to start the preparation of the bricks on 15/09/2019 by employing some other labourers. Thereafter, he intentionally disappeared and did not come at the brick kiln for the preparation of the bricks. When he did not start the work, Chandan Grover, Jasmail Singh and Darpan Singh started locating his whereabouts and in the meantime, Sunder was seen sitting at the shop of petitioner Sikander Kumar. When Chandan Grover and others asked him that why he has not started the preparation of the bricks even after taking Rs. 3,20,000/-, he said that he has already given some amount to the labourers, who have now resiled after taking the payments. He further promised to start the preparation of the brick on the next day and he voluntarily sat in on Ritz car bearing registration No. PB-19-J-1837 with Chandan Grover and the others. When they reached Moga, where Sunder again started demanding some more amount to start the work at the brick kiln. Chandan Grover and others further gave Rs.20,000/- to him, but in spite of that he did not start any work nor he returned this amount to Chandan Grover and others.

4. It has been further reported that on 19/09/2019 after taking a total sum of Rs.3,40,000/-, he intentionally disappeared and in the meantime, one uncle of Sunder namely Pappu filed one CRWP No. 858 of 2019 in this Hon'ble Court and thereafter a warrant officer was appointed by this Hon'ble Court to trace the whereabouts of Sunder. It has been further reported by SHO PS Focal Point and Assistant Commissioner of Police (Industrial Area-A), Ludhiana and that in fact, Sunder was never illegally detained or kidnapped by any person nor he was ever kept in any illegal custody by any person nor any of his relatives ever submitted any complaint to the police authorities, nor they ever intimated any other authority regarding his alleged kidnapping and illegal detention.

5. It is further respectfully submitted that during the course of enquiry, it has transpired that Sunder s/o Puran voluntarily attended the marriage of Meenakshi daughter

of his friend Om Pal on 19/11/2019 at village Kandhla, District Shamli (U.P.). In this regard, a video CD was also taken into possession in which, Sunder s/o Puran could be clearly seen happily attending the said marriage. In this regard, Arvind, Municipal Councillor, Nagar Palika Prishad, Kandhla District Shamli (U.P.) has also given one writing on his letter pad, in which he has clearly mentioned that on 19/11/2019, he alongwith Sunder and some other persons attended the marriage of Meenakshi daughter of Om Pal s/o Prithvi, which was solemnized at village Kandhla, District Shamli (U.P.). In this regard, the statement of Sunita wife of late Sulekh resident of village Kandhla, District Shamli (U.P.), who is sister-in-law (Bhabi) of Sunder has also been recorded, in which she has specifically got recorded that on 19/11/2019 his brother-in-law Sunder also attended the marriage of Meenakshi daughter of Om Pal, which was solemnized at village Kandhla, District Shamli (U.P.). Sunder s/o Puran dishonestly and fraudulently took Rs.3,40,000/- from Chandan Grover and the other for the preparation of the bricks, but later on, he did not prepare any brick, nor he returned this amount to Chandan Grover and others and on the contrary in order to put pressure upon Chandan Grover and others, his relatives started filing the petitions before this Hon'ble Court. The allegations leveled by the petitioner regarding the illegal detention/confinement and kidnapping of Sunder s/o Puran did not substantiate during the course of enquiry conducted by SHO PS Focal Point, Ludhiana as well as Assistant Commissioner of Police (Industrial Area-A), Ludhiana.”

No counter affidavit has been filed by the petitioner. Even none has appeared for the petitioner today.

In view of the affidavit filed on behalf respondents No. 1 to 3 that detinue Sunder had not been illegally detained by respondent No. 4, no further action is required to be taken on the present petition which is disposed of accordingly with no order as to costs.

27.01.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No