

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

256

CRWP-858-2019

Date of decision: 27.01.2020

Pappu

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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 4

Ms. Monika Tanwar, Advocate
for respondent No. 5

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for getting detenue Sunder released from the illegal custody of respondent No. 5 by appointment of a Warrant Officer.

Vide order dated 26.09.2019 by the Co-ordinate Bench, Warrant Officer was ordered to be appointed at the expense of the petitioner and to visit the premises of respondent No. 5 i.e. Brick Kiln Marka GD, Village Jalalabad, Tehsil and District Moga or any other place appointed by the petitioner and in case the detenue was found to be illegally detained, to secure his release immediately.

In compliance with the above said order Mr. Vijender Singh, Assistant Registrar was appointed as Warrant Officer to

accordingly visit the premises and submit his report.

The Warrant Officer accordingly visited the premises of respondent No. 5 and submitted his report dated 01.10.2019 relevant parts of which are reproduced as under :-

“In compliance to the orders dated 26.09.2019, passed by Hon'ble Court, undersigned alongwith petitioner Pappu and his nephew reached at P.S. Sadar Moga. Santry Amardeep and Constable Kuldeep Singh (1176) were available in Police Station, to whom after revealing my identity stated the purpose of visit who further informed to the SHO Jagtar Singh, P.S. Sadar Moga, who alongwith P.C.R. reached in Police Station and provided police party to visit at the Brick Kiln of Respondent No. (5). After reaching at Brick Kiln it is informed by the Police officials that Brick Kiln falls in the Jurisdiction of Police Station Dharamkot, later on Police officials from Dharamkot were called at Brick Kiln. After reaching at Brick Kiln at 1.00 A.M. Dated 28.09.2019 the door of the office of Brick Klin was knocked. Babloo s/o Girdhari Lal P.O. Baso, The Kanda, P.S. Bagh Rai District Partapgarh was found available, on asking who told that he is working as Munshi at G.D. Brick Kiln, since three year. Immediately search was carried out in all huts in Brick Klin and the office. Some laborers were sleeping there and about alleged detenue, they were also enquired but they refused that they have not seen such person on the Brick Klin. Alleged detenue was called by name loudly but alleged detenue Sunder S/o Puran Singh not found available at Brick Kiln. After getting mobile number of the Brick Kiln owner (Respondent No. 5) from Munshi, Police officials contacted him, later on undersigned made a call at his number 9914888845 at 1.25 A.M. after disclosing the identity stated the purpose of visit, who told that he is presently available in Muktsar and denied their involvement in disappearance of alleged detenue. It is further told that his second partner Babla is out of station and presently available in Kanpur U.P. Since alleged detenue was not found available at Brick Kiln G.D. Mark, at village Jalalabad at the time of my visit. Notice for Respondent No. 5 served to the Munshi who was available at the Brick Kiln at the time of my visit. Copy of Notice for Respondent No. 3 duly received by S.I. Kashmir Singh P.S. Dharamkot as no police station exist in Jalalabad after due corrections in Respondent's name. On the asking of the petitioner visit closed.

In compliance to the orders of Hon'ble Court dated 26.09.2019, it is fairly submitted that undersigned

alongwith petitioner Pappu, and his Nephew made visit at the premises of Respondent No. 5 G.B. Brick Kiln, Jalalabad, on the intervening night of 27.09.2019 and 28.09.2019 but alleged detainee not found available at Brick Kiln of Respondent No. 5. The owner of the Brick Kiln was contacted on his mobile number 9914888845, who shown his inability to come on the brick kiln by saying that he is out of station and presently at Muktsar. He further told that his partner Chandan grover is also out of station and denied their involvement in disappearance of alleged detainee. Notice to Respondent no. 5 served through his Munshi Babloo s/o Girdhari Lal. Necessary Instructions given to Respondent No. 4. SHO Dharamkot to trace the alleged detainee Sunder s/o Puran Singh. On the asking of petitioner visit closed undersigned returned to Chandigarh after making entry in DDR at Sr. No. 3 dated 28.09.2019 P.S. Dharamkot. ”

Mr. Yadwinder Singh, PPS, Deputy Superintendent of Police, Dharamkot, District Moga has filed affidavit on behalf of respondents No. 1 to 3.

In preliminary objection No. 1 taken in his affidavit, Mr. Yadwinder Singh, PPS, Deputy Superintendent of Police, Dharamkot, District Moga has submitted as under :-

“ On 28.09.2019 Vajinder Singh, Warrant Officer, visited the premises of GD Brick Kiln Jalalabad. A police team of District Moga also visited the said brick kiln. Warrant Officer with the help of police team conduct search of premises of GD Brick Kiln Jalalabad, District Moga, but the alleged detainee Sunder was not found present. In this regard Warrant Officer had also entered DDR No.33 in the police station Dharamkot. Warrant Officer also directed the police to trace out the alleged detainee, as per directions of warrant officer, police started making efforts to trace out the alleged detainee and it is found that Ram Partap is working as Jamabdar on said brick kiln and said Sunder promised that he will provide labour for making 50000 bricks daily for a season and said Sunder demanded Rs.3,50,000/- in advance for the same. Said Sunder had received Rs.3,20,000/- on different dates and lastly he had received the amount on 14.09.2019, but after that neither said Sunder had provided the labour to said brick kiln nor returned the amount. Later on petitioner who is brother of said Sunder had filed the present petition before this Hon'ble Court on false and baseless story.

None has appeared for the petitioner today.

In view of the report of the Warrant Officer and affidavit

filed by Mr. Yadwinder Singh, PPS, Deputy Superintendent of Police, Dharamkot, District Moga, no further action is required to be taken in 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