

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP- 4770 of 2020(O&M)

Date of Decision:17.01.2022

Gurtejpaljit Singh

---Petitioner

versus

State of U.T.Chandigarh and others

---Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Liaqat Ali, Advocate
for the petitioner

Mr. Rajiv Anand, Addl.PP for U.T., Chandigarh

AMOL RATTAN SINGH, J.(ORAL)

Case heard via video conferencing.

1. By this petition, filed under Article 226 of the Constitution of India, the petitioner sought issuance of a writ in the nature of Habeas Corpus, and for appointment of a Warrant Officer, with a roving writ to search for the (alleged) detainee, namely Gurjot Kaur daughter of Jagjit Singh Saroya, at the premises of respondent No. 4 or at any place to be pointed out by the petitioner at the spot, and to get the detainee released, with her belongings.

2. The matter has remained pending for sometime now, with various detailed orders having been passed at different points of time, with it considered necessary to reproduce at least the order dated 9.4.2021, by which essentially the conduct of the petitioner has been referred to, in the

context of the medical reports received. The said order reads as follows:-

“CRM- W-409 of 2021

This application has been listed today annexing therewith the affidavit of the ASP (South), Chandigarh, to counter the submissions made by the petitioner in his affidavit dated 18.02.2021, also giving therein the chronological sequence of events since the filing of the accompanying writ petition, further detailing therein the action taken at different points of time by the Chandigarh Administration, including the Government Multi Speciality Hospital, Sector 16, Chandigarh, the Government Medical College and Hospital, Sector 32, Chandigarh, the police, as also the Medical Board constituted in the PGIMER Chandigarh.

Notice in the application.

Mr. Liaqat Ali, Advocate, accepts notice on behalf of non-applicant/petitioner. The application, seeking to place on record the counter affidavit dated 19.03.2021, is allowed. The affidavit dated 19.03.2021 is taken on record.

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It has been stated in the said affidavit that pursuant to the order of this Court dated 10.11.2020, a Medical Board of Senior Medical Specialists of the PGI Chandigarh was constituted, with the alleged detainee (wife of the petitioner) first examined on 27.11.2020. She was found to be conscious, oriented and cooperative and no external wound or discharge over the scalp was found.

Thereafter, she was again examined from 11.12.2020 to 14.12.2020 and yet again on 17.12.2020, where the finding was that the alleged detainee was evaluated for psychiatric well being, radiological investigation and the medical board opined that the detainee is having grossly normal study for brain and scalp and no active intervention of any kind is required.

None of the aforesaid reports of the learned Board of Doctors constituted at the PGI, Chandigarh, is stated to have been ever challenged/countered by the petitioner or his wife.

Thus, as regards the opinion given by the Sobti Neuro and Super Speciality Hospital, that the alleged detainee, i.e. Gurjot Kaur, should undergo surgery for “Osteomyelitis Skull”, that opinion has been practically negated. It has also been stated by the PGI that no active intervention of any kind was required.

As regards the allegation that the petitioner's wife had to undergo 17 stitches (on account of the wounds allegedly inflicted upon her by her father), the Medical Examination Report dated 22.08.2020 earlier issued by the Government Multi Speciality Hospital, Sector 16 Chandigarh, found that in

fact there was no sign of any stitches ever administered to her and that she had applied some red colour paint/medicine in the occipital region of her scalp. It has, in effect, been stated in said affidavit that precious medical and other resources as would have been required, especially during the time of this pandemic, had to be diverted on the frivolous allegations raised by the petitioner and consequently, with the entire State and judicial machinery having been virtually put to task by the misuse of legal procedure, just and appropriate orders may be passed in this case.

Mr.Liaqat Ali, learned counsel appearing on behalf of the petitioner, firstly submits that the petitioner has already tendered his unqualified apology and that therefore this Court may accept that apology and let that the matter be set at rest. He thereafter submits that petitioner's wife was in fact beaten up by her mother and did sustain at least an injury on her head and therefore the petitioner was not wrong in making the allegations.

Mr.Anand, learned APP, however, points out that in fact the earlier specific allegation was that the petitioner's wife was beaten up her father and a lady ASI as recorded in the order dated 07.08.2020 passed by this Court, with the story now being that it was actually her mother who had beaten the petitioner's wife.

Having considered the matter, I see absolutely no justification at all for the petitioner to have tried to make a complete mockery of the judicial system as also of the state machinery, including hospital resources, with even doctors from the Multi Speciality Hospital, Sector 16, Chandigarh, the Government Medical College and Hospital, Sector 32 Chandigarh and the PGIMER, Chandigarh, having been put to the unnecessary task of evaluating non-existent problems with the petitioner's wife.

Even if it is to be accepted at face value that the petitioner's wife was possibly beaten up by her mother and father at any point of time, however, with the petitioner having stated that she, in fact, had received stitches because of such beatings at the hands of her father and a lady ASI, but there having been found to be no stitches at all on her head and body, and on the other hand, there having been found to be paint/medicine applied on her skull to try and deceive the medical board to believe that the paint/medicine was on account of stitches earlier received (with that having found to be completely false by the doctors), the contentions made on behalf of the petitioners are hereby rejected.

Adjourned to 13.05.2021 for this Court to determine the nature of punishment to be imposed on the petitioner. Counsel for the parties would address arguments on that issue alone on the next date of hearing.

To be shown in the urgent motion list.”

3. Thereafter on the observation of this Court, learned Additional PP, UT, Chandigarh, had filed an application on the last date of hearing, which application is actually made by the Deputy Superintendent of Police, (South), U.T., Chandigarh, (duly supported by an affidavit), seeking to place on record the instances/pleadings by which either the petitioner himself or somebody on his behalf had made misleading/wrong contentions before this Court, either by way of oral submissions or by way of affidavit.

Notice having been issued in that application (CRM-W-1475 of 2021), on 7.12.2021, opportunity had been granted to the petitioner to file a response thereto, but with no such response having filed.

4. Today, learned counsel petitioner simply reiterates that the petitioner has tendered his unqualified apology yet again before this Court.

5. Before that point is considered, it is necessary to refer to the aforesaid application.

(i) Other than stating that the (alleged) detainee is the adopted child of respondent No. 4, it has been stated by the Deputy Superintendent of Police (South), Chandigarh, that the allegations of illegal confinement of the alleged detainee, i.e. Gurjot Kaur, were found to be false.

(ii) It has next been pointed out by the DSP that even the warrant officer ordered to be appointed by this Court could not find the address at which the alleged detainee was alleged to have been illegally confined and tortured, which was actually a non-existent address.

(iii) Thereafter, reference has been made to the order of this Court dated 7.8.2020, wherein it is recorded that the allegation that came up at that stage was that the alleged detainee was being tortured by her father/step father (respondent No. 4) and that in fact she was inflicted third

degree torture by lady police officials, due to which she was admitted to the Government Medical College and Hospital, Sector-32, Chandigarh.

In that respect the application points to paragraph 4 of the affidavit filed by the petitioner, dated 4.11.2020.

(iv) The DSP states in his application that pursuant to the aforesaid order of this Court, a Medical Board was constituted in the Government Multi Speciality Hospital, Sector-16, Chandigarh, and an enquiry was also conducted by the ASP (South), Chandigarh, with all allegations of torture, hospitalization and stitches allegedly received by the alleged detainee on her head due to such torture, found to be completely false.

The report of the Medical Board, as also the enquiry report, were placed on record vide an affidavit dated 25.8.2020.

(v) With the petitioner not having filed any response to the aforesaid report despite opportunity given, it is stated by the D.S.P that he (petitioner) then came up with the story that he was suffering from the Covid-19 infection, with him having therefore been directed to place on record any certificate showing that he was so suffering, vide this Court's order dated 25.9.2020.

(vi) The DSP next refers to an application dated 28.9.2020 by which a medical certificate was sought to be placed on record by the father of the petitioner (Buta Singh), accompanied by an affidavit of the same date. However, even in the said medical certificate it was not written anywhere that the petitioner was suffering from the Covid -19 virus but that he was suffering from high grade fever with bronchitis and pain in chest; and was under treatment in hospital since 21.9.2020 and had been advised to have

complete rest for 15 days.

(vii) A certificate issued by Dr. Manoj Kumar Sobti of the Sobti Neuro and Super Speciality Hospital, also dated 28.9.2020, has also been referred to in the application, by which certificate it had been advised that Gurjot Kaur undergo surgery for “osteomulitis skull” within a week (seen at page 96 of the paperbook, with an affidavit dated 4.11.2020 filed by the petitioner).

(viii) In response to the said application/affidavit and certificate, a Medical Board of specialists was constituted in the PGIMER, Chandigarh, with detailed investigations conducted as regards the condition of the detainee, over 3-4 days, with the Board, in its report dated 29.12.2020, having opined that there was no kind of external or internal injury on the person of the alleged detainee (Gurjot Kaur), and with the said report having been placed on record before this Court vide CRM-W-54 of 2021.

(ix) The DSP has next stated in the application that the petitioner not having been able to refute the aforesaid facts and report, he has tendered an unconditional apology to this Court.

(x) The false/misleading statements/averments made by/on behalf of the petitioner before this Court, have also been referred to, (with reference to orders of this Court dated 10.7.2020, 7.8.2020, 25.9.2020, 30.9.2020, 10.11.2020 and 18.2.2021).

6. Eventually, on the basis of the aforesaid facts, it has been prayed in the application that the conduct of the petitioner may be taken into consideration before finally adjudicating upon the application, with the entire State machinery and 'judicial functionality' having been set in motion on the basis of a frivolous complaint leading to wastage of time, with

allegations also made against a disciplined police force, which already stands heavily burdened at the time of this pandemic.

[It is also to be noticed that upon query to learned counsel for the petitioner, he submits that though the petitioner was not married to the alleged detainee at the time when the petition was filed, during the pendency of the petition, he and Gurjot Kaur have married each other, which fact is corroborated by the Additional Public Prosecutor as per his instructions.]

7. Having considered the matter, very obviously, with the petitioner not having been able to refute the medical report/opinion given by the learned doctors of a Medical Board even constituted in the PGIMER, Chandigarh, his allegations of torture etc. of Gurjot Kaur, either by respondent No. 4 or by any police official, are found to be wholly unfounded, with him also therefore having possibly perjured before this Court, though separate proceedings would need to be instituted in that respect(under the provisions of Section 340 Cr.P.C.).

8. Today also, the only contention that learned counsel for the petitioner again makes is by again tendering an unqualified apology on behalf of the petitioner.

As regards the petitioner having suffered from the Covid-19 virus he submits that as per the certificate issued by Rohit Hospital, Dana Mandi, Badha Pind Road, Goraya, District Jalandhar, the petitioner was suffering from high fever and simply because he could not produce a certificate of him having tested positive for the Covid-19 virus, at the time this pandemic, that cannot be taken as a conclusive proof that he was not so suffering.

As regards that aspect, though I would be extremely skeptical

in accepting the said certificate without it being verified by a Government hospital, yet, even if that part is to be ignored by this Court, it does not alter the fact that wholly false allegations have been found to be made by the petitioner against respondent No. 4 as also against the Chandigarh Police, of alleged torture etc. of Gurjot Kaur, which have been patently found to be false, with the petitioner also not now denying the same and simply tendering an apology.

9. Learned counsel for the petitioner further submits that the petitioner is a young man of 29 years and therefore this Court may be lenient in awarding him any punishment.

10. Looking at the fact that the petitioner wholly unnecessarily wasted considerable time of this court, and made false allegations against the police, and even more importantly, made the state machinery (police) run around unnecessarily; and due to his actions, two medical boards had to be constituted in the Govt. Multi Specialty Hospital and the Post Graduate Institute of Medical Education & Research (PGIMER) in the time of this pandemic; and with it found that the stitches that Gurjot Kaur was alleged to have received, were actually nothing but saline solution/red paint, the petitioner most definitely can not be allowed to go scot free on a simple apology tendered.

In that context, Section 2(a) to (c) of the Contempt of Courts Act, 1971, are reproduced here-in-below”-

“2. Definitions.—In this Act, unless the context otherwise requires,-

- (a) “contempt of court” means civil contempt or criminal contempt;
- (b) “civil contempt” means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;
- (c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or

otherwise) of any matter or the doing of any other act whatsoever which—

Section 12 (1) to (3) of that Act read as follows:-

“12. Punishment for contempt of court.—

(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both: —(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:” Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court. Explanation.—An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.”

Thus, in my opinion, the petitioner, for deliberately misleading the court in the light of what has been noticed here-in-above, has committed contempt of court in terms of Section 2 (c) (ii) & (iii) of the aforesaid Act, he having interfered with the administration of justice.

11. Learned counsel for the petitioner and the petitioner (present by video conferencing), however submit that instead of punishing him by sending him to jail for any period of time, which may possibly ruin his

entire career and life, he may be directed to pay heavy costs.

That being so, the petition is disposed of with a direction to the petitioner to deposit costs as follows:-

- (i)Rs. 70,000/- to be paid to the U.T.Police Welfare Fund;
- (ii) Rs. 50,000/- to the Poor Patient's Fund in the PGIMER, Chandigarh;
- (iii)Rs. 30,000/- in the Poor Patient's Fund/any Charitable Fund in the Government Multi Speciality Hospital, Sector-16, Chandigarh.

Such costs be deposited within a period of three months from today, with receipts in that regard to be put up to this court by 1.5.2022.

It is made clear that if the said costs are not deposited, as directed, the petitioner would undergo simple imprisonment for one month, in default thereof.

(AMOL RATTAN SINGH)
JUDGE

17.01.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes