
(1994) 11 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 750 of 1994

Farsi Devi and ors.

APPELLANT

Vs

State of Punjab and ors.

RESPONDENT

Date of Decision : 08-11-1994

Acts Referred:

Citation : (1995) 1 RCR(Criminal) 235

Hon'ble Judges : V.K.Jhanji, J

Advocate : D.D. Sharma, Kamal Sehgal, Advocates for appearing Parties

Judgement

V.K. Jhanji, J.

1. Present habeas corpus petition has been filed by the petitioners for a direction to the respondents to produce the petitioners in Court and release them and for grant of damages as the petitioners were illegally confined since 8.10.1994 without any case and without their involvement in criminal activity.

2. In paragraph 2 of the petition, it has been stated that on 8.10.1994, respondent No. 3, came in the village of the petitioners along with police force and without any reasons took all the petitioners to the Police Station, Sadar, Abohar on the pretext that some case has to be investigated and the presence of the petitioners is required for the same. Out of the petitioners, petitioner No. 1 is stated to be of 85 years old. Similarly, some petitioners are women and petitioner No. 5 is three years old whereas petitioner No. 6 is only eight month's old. The present petition was filed on 15.10.1994. A Warrant Officer was appointed to search the detenus. The Warrant Officer, Shri Dian Singh, in his report dated 27.10.1994 has stated that on 17.10.1994, when he along with Parvesh, a relative of the petitioners reached Police Station Sadar, Abohar at 6.10 a.m. he found : Atul Kumar, one of the detenus sitting in the lock up. When A.M.C. was asked to produce the Roznamacha, he found no entry therein, regarding detention of Atul Kumar. Meanwhile, SI Darshan Singh and ASI Jalaur Singh arrived there. When enquiry was made with regard to detention of Atul Kumar, they informed that the detenu was required in furtherance to a complaint

lying with the S.H.O. However, copy of the complaint was not given or shown to the Warrant Officer despite his asking for the same. The Warrant Officer also found Farsi Devi, aged 85 years, Sunita, Gita, Kirna, aged 3 years and Pappu aged 9 months (mentioned at Serial Nos. 1, 2, 3, 5 and 6 in the petition) on the second floor of the Police quarters situated near the Police Station. When the Warrant Officer knocked at the door, a lady constable opened the door and asked the Warrant Officer to see the S.H.O. in this regard. When the S.H.O. was asked about the detention of these persons in the police quarters, he showed his ignorance despite having been told by the Warrant Officer about their presence in Police Quarter No. 9. While the Warrant Officer was talking to the S.H.O. an official of the Police Station apprised the Warrant Officer that those persons have been seen at the Bus Stand meaning thereby that when the Warrant Officer had come from Police Quarter No. 9 to the Police Station to see the S.H.O., they were taken to the Bus Stand and were released.

3. Mr. D.D. Sharma, Advocate, counsel for respondent No. 3, Baljinder Singh, S.H.O., Police Station Sadar, Abohar has filed reply by way of affidavit. In the affidavit, it has been stated that detenu Atul Kumar was produced by Nirmal Kumar, Sarpanch on the persuasion of Babu Ram, M.L.A. Copy of the complaint dated 14.10.1994 has also been annexed with the affidavit. It is also stated that one Vasudev son of Mannu Dutt, who is related to the petitioners is involved in a murder case and two F.I. Rs have been registered against him and others, is wanted by the police. All accused except Vasudev have surrendered and the present petition has been filed only to avoid an action against Vasudev. According to the counsel, the present petition has been filed at the instance of Vasudev.

4. After hearing the learned counsel for the parties and on going through the record, I find that Atul Kumar as also Farsi Devi, Sunita, Geeta, Kirna and Pappu (petitioners No. 1, 2, 3, 5 and 6) had been detained by respondent No. 3 without there being any case against them. Neither there is any entry in the Roznamcha nor one has been shown to me even at the time of hearing of this petition by counsel for the respondent. As and when a person is detained in the lockup or released, an entry is required to be made in the relevant register as per the police rules. It may be true that one of the relatives of the petitioners, namely, Vasudev is wanted in a murder case and probably these persons may have been called to know about the whereabouts of Vasudev but there is no justification to illegally detain these persons without there being any case having been registered against them or there being any entry in the relevant register regarding their detention.

5. Since all the persons have been released under the direction of this Court, no further direction can be issued in this petition. Accordingly, this petition shall stand dismissed as having become infructuous leaving it open to the petitioners to seek appropriate remedy for claiming damages for their illegal detention.