

(2012) 01 P&H CK 0281

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 2225 of 2011 (O and M)

Golu

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 03-01-2012

Acts Referred:

Citation : (2012) 166 PLR 25

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal has been directed against the judgment dated 29.9.2011 passed by the learned Single Judge whereby Criminal Writ Petition No. 1692 of 2011 filed by the appellant, has been dismissed with costs of Rs. 5,000/-. Appellant Golu had filed the aforesaid criminal writ petition of habeas corpus alleging therein that 13 persons, whose particulars were given in the writ petition, were illegally detained by respondents No. 4 and 5 (who are brick kiln owner and the Jamadar of the said brick kiln) and they are getting bonded labour work from them.

2. While issuing notice of motion in the said writ petition, the learned Single Judge directed the District Magistrate, Tarn Taran (respondent No. 2 therein) to submit a report on the allegations made by the appellant in the petition with regard to compliance of the Bonded Labour System (Abolition) Act, 1976. On the preceding date of hearing, the District Magistrate submitted the report on affidavit stating therein that when Tehsildar, Tarn Taran visited the premises of brick kiln of respondents No. 4 and 5 on 13.9.2011, no bonded labour was found in the premises of respondents No. 4 and 5. The Tehsildar not only recorded the statements of respondents No. 4 and 5, detail of which was given in the writ petition, but also recorded the statement of Munshi/Clerk at the brick kiln and the statements of some of the labourers who were working at that time in the brick kiln. All of them had stated that neither the appellant nor the alleged

detenues ever worked at the brick kiln of respondents No. 4 and 5. However, the Munshi of the brick kiln stated that the appellant and his companions had taken certain amount from him for doing work at the brick kiln after Monsoon season, for which an agreement was made on 25.8.2011, but under the said agreement neither the appellant nor the alleged detenues had started the work at the said brick kiln.

3. In response to the aforesaid reply filed by the District Magistrate, the appellant filed the rejoinder by taking the stand that the appellant and his companions were allowed to leave the brick kiln on 12.9.2011 on the intervention of Tehsildar, Tarn Taran, as per his verbal order.

4. The learned Single Judge after hearing the learned counsel for the parties and considering the various submissions, the reply as well as rejoinder, came to the conclusion that while filing the habeas corpus petition the appellant made false averment that the detenues alleged in the petition were illegally detained at the brick kiln of respondents No. 4 and 5. It has been found that as per the report of the District Magistrate when the Tehsildar visited the spot, none of the detenues alleged in the petition were found working at the brick kiln of respondents No. 4 and 5. Coming to the said conclusion and while noticing that in writ jurisdiction of this Court large number of habeas corpus petitions are filed, and in some of them by making false averments with regard to detention of labourers by the brick kiln owners, the learned Single Judge dismissed the petition with costs.

5. During the course of hearing, learned counsel for the appellant argued that the learned Single Judge should not have relied upon the report of the District Magistrate which was made without associating the appellant and on the basis of such report the petition should not have been dismissed with costs, in support of his contention, learned counsel while placing reliance on the decisions of the Hon"ble Supreme Court in *Bandhua Mukti Morcha Vs. Union of India (UOI) and Others*, and *Neeraja Chaudhary Vs. State of M.P.*, , argued that the District Magistrate was required to associate the appellant in the enquiry and any report submitted by him without association of the appellant should not have been relied upon. Secondly, learned counsel argued that the learned Single Judge should not have taken into consideration his personal knowledge about the habeas corpus petitions being filed for the release of the labourers working at the brick kilns.

6. After hearing the learned counsel for the appellant at length, we do not find any substance in the present appeal. In each and every case it is not mandatory for the District Magistrate to submit the report as required by this Court by associating the petitioner, particularly when on visiting the place of brick kiln, where the detenues had been alleged to be illegally detained, no detainee was found working there, therefore, the question of illegal detention of any such person does not arise. Further, in none of the authorities cited by the learned counsel, referred to above, it has been laid down that in a habeas corpus petition when the Court asked for the report of the District Magistrate, the District

Magistrate is bound to submit the report after associating the petitioner.

7. The learned counsel for the appellant though orally stated that the alleged detenues were working at the brick kiln of respondents No. 4 and 5 and they were released on 12.9.2011 on the intervention of the Tehsildar as per his verbal order, but he could not produce any material to prove that the alleged detenues had ever worked with the brick kiln owner. The Tehsildar while submitting the report not only relied upon the statements of respondents No. 4 and 5 but the statements of many other persons were also recorded who categorically stated that no alleged detainee ever worked in the said brick kiln. This was not the issue whether the alleged detenues were working in the brick kiln of respondents No. 4 and 5 or not, the issue was whether any person was illegally detained by respondents No. 4 and 5 as bonded labour. After notice, when the District Magistrate was asked to submit the report, the District Magistrate deputed a responsible officer to visit the place of brick kiln and submit the report about the illegal detention of the alleged detenues. The Tehsildar visited the spot but did not find the alleged detenues working there. In our opinion, the report of the District Magistrate submitted on affidavit cannot be disbelieved. When no alleged detainee was found, there was no question of associating the appellant, particularly when the appellant himself had stated that the alleged detenues were released on the verbal order of the Tehsildar. As far as the argument with regard to personal knowledge of the learned Single Judge with regard to large number of habeas corpus petitions being filed for the release of the detenues at the brick kilns is concerned, the same is totally misplaced. The Court while dealing with the number of cases has its experience and some time those experiences are taken care while adjudicating the matter. In such situation, it cannot be said that the Judge has taken the personal knowledge into consideration in deciding the cases. The tendency of making false averments in filing the habeas corpus petitions is increasing day by day. Therefore, the Court cannot shut its eyes and permit for filing such petitions by making false averments. Therefore, in our opinion, the learned Single Judge has rightly dismissed the criminal writ petition filed by the appellant with costs of Rs. 5,000/-. We do not find any substance in the present appeal. Therefore, we dismiss the appeal with symbolic costs of Rs. 2,000/-.