
(1995) 05 P&H CK 0063

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 238 of 1995

Subhash Chand

APPELLANT

Vs

Station House Officer, P.S.Sunam

RESPONDENT

Date of Decision : 12-05-1995

Acts Referred:

Citation : (1995) 2 CurLJ 230 : (1995) 3 RCR(Criminal) 227

Hon'ble Judges : Sarojnei Saksena, J

Advocate : Ashok Sharma Nabhawala, A.S. Kalra, Advocates for appearing Parties

Judgement

Dr. Sarojnei Saksena, J.

1. Heard. Petitioner is present in the Court. Mr. Ashok Nabhawala submits that from the Warrant Officer's report it is evident that the detenu was taken in custody by the respondents 2 and 3 on 20.3.1995 in the evening and on 23.3.1995 the Warrant Officer found the detenu present in the Police Station, Sadar Sunam, from where he got him released. Admittedly, no criminal case is registered at this Police Station against the detenu. The highhanded action of the respondents 2 and 3 is reprehensible and should be condemned so that the liberty to other citizens may not be infringed in this way by the police officials.

2. Mr. A.S. Kalra, learned counsel for the respondents, controverting the above facts submitted that respondent Nos. 2 and 3 had not taken the detenu in custody on 20.3.1995. The detenu was called though Gurjant Singh, President, Rickshaw Union, Sunam and Rajinder Kumar, President, Rehri Union, Sunam, on 20.3.1995 for interrogation in connection with FIR No. 179 dated 25.12.1994, registered under sections 457/380 of the Indian Penal Code. He also contended that in the presence of these two persons, whose affidavits are filed on record, the detenu was interrogated and these persons were thereafter asked to produce him again on 21.3.1995. In compliance thereof, they produced the detenu on 21.3.1995 and 22.3.1995 at Police Station Sadar, Sunam but as respondents 2 and 3 were not available, the detenu and these persons came back. For that

purpose, these persons again produced the detenu at the Police Station on 23.3.1995 and on this date, the Warrant Officer found the detenu in the premises of the police station and got him released. He further submitted that the police has the onerous duty to hold investigation whenever commission of any offence is reported. To perform their duties they are supposed to interrogate the suspected persons and only after getting some tangible information, they register an offence against that person. With that view, the detenu was called at the Police Station through Gurjant Singh and Rajinder Kumar. The detenu was not detained in the Police Station for four days as is alleged in the petition.

3. The petitioner filed this Habeas Corpus petition on 3.3.1995 alleging that on 20.3.1995 at 5.25 p.m., the respondents 2 and 3 had taken away the detenu. His mother and the petitioner requested these respondents to release the detenu but they abused and demanded a high price for that. On 23.3.1995, the Warrant Officer appointed by this Court went to the Police Station Sadar, Sunam, and found the detenu present there and got him released. From the affidavits of Gurjant Singh and Rajinder Kumar it is evident that the detenu was called at the Police Station on 20.3.1995. Both these affidavits are identical. Rajinder Kumar is President of the Rehri Union but still in his affidavit, he has deposed that 7/8 months back Mohan and Akram had hired a rickshaw of the deponent for 15 days but after that he did not use his rickshaw and claimed himself as rickshawpuller at Sunam. This shows the falsity of the statement of these got up witnesses. Much reliance cannot be placed on these affidavits. These deponents have to ply their business and for that they need police protection.

4. From these affidavits it is also evident that from 20.3.1995 till 23.3.1995 at 6.10 p.m. the detenu was in the Police Station Sadar, Sunam and if any such F.I.R. was registered, the police could have arrested him but detaining him for four days in the name of interrogation is neither justifiable nor lawful. The petitioner now apprehends false implication at the hands of these respondents. His apprehension cannot be said to be in the air.

5. Keeping in view all the facts, enumerated above, the respondents are directed to maintain rule of law and not to impinge on the liberty of the citizens without any justifiable and lawful cause. They have ample powers and jurisdiction to deal with criminals and to maintain law and order but this should always be done, within the four walls of their powers. With this direction, the petition is disposed of.