

IN THE SUPREME COURT OF INDIA

Writ Petn. (Crl.) No. 271 of 1993.

Decided On: 06.10.1994

Appellants: Arvinder Singh Bagga

Vs.

Respondent: State of U.P. and Others

Hon'ble Judges:

S. Mohan and U.P. and Others

Counsels:

For Appellant/Petitioner/Plaintiff: R.S. Sodhi, Adv.

For Respondents/Defendant: A.S. Pundir, Adv.

Case Note: Criminal detention. Matter related prosecution of police officers for illegally detaining persons.

- Detention was of married woman in custody who was not accused on pretext of her being victim of abduction and rape which never was to her knowledge
- She was tortured by threats of violence to her and to her husband and family
- Direction given to State to take immediate steps to launch prosecution against all police officers involved in this sordid affair.
- State shall pay compensation to all persons illegally detained and humiliated for no fault of theirs.

ORDER

S. Mohan, J.

1. Pursuant to our order dated November 16, 1993, the District Judge of Bareilly has submitted his report. Mr. R.S. Sodhi, learned Counsel for the petitioner and Mr. A.S. Pundir, learned Counsel for the State of Uttar Pradesh perused the reports. Mr. R.S. Sodhi would submit that the erring Police Officers should be prosecuted and compensation should be given to such of those who have been illegally detained and suffered humiliation at the hands of the police.

2. Learned counsel for the State, though was present on an earlier occasion, did not choose to appear in spite of the matter having been passed over twice.

3. We have carefully perused the report. We are appreciative of the good work done by the learned District Judge. He had held a thorough inquiry by examining several witnesses to arrive at the truth. In our considered opinion the report is a fair one and deserves to be accepted. It is accordingly accepted.

4. The report in no uncertain terms indicts the police. It inter alia states:

On a careful consideration of all the evidence on record in the light of the surrounding circumstances I accept the claim of Nidhi that she was tortured by the police officers on 24th, 25th and 26th July, 1993. On 24.7.93 she was pressurised by J.C. Upadhyaya S.H.O., Sukhpal Singh, S.S.I, and Narendrapal Singh S.I. and threatened and commanded to implicate her husband and his family in a case of abduction and forcible marriage thereafter. She was threatened with physical violence to her husband and to herself in case of her default and when she refused her family members were brought in to pressurise her into implicating them. On 25th July 1993 she was jolted out of sleep by Sukhpal Singh S.S.I. and made to remain standing for a long time. She was abused and jostled and threatened by J.C. Upadhyay, Sukhpal Singh and Narendrapal Singh with injury to her body if she did not write down the dictated note. Sukhpal Singh SSI even assaulted her on her leg with Danda and poked it in her stomach. She did not yield to the pressure. Then, on 26.7.1993 she was given filthy abuses and threatened by J.C. Upadhyay and Sukhpal Singh for writing a dictated note. She was pushed and jostled by them both. Sukhpal Singh S.S.I. hit her with a danda on her leg and made threatening gestures aiming his Danda on her head. Ultimately they both succeeded in making her write a note dictated by them whose contents were those which were incorporated by the investigating officer in his case diary as her statement under Section 161 Cr.P.C. Thereafter on 27th July she was purported to be taken by K.C. Tyagi to the Court for the recording of her statement under Section 164 Cr. P.C. but was taken by J.C. Upadhyay, S.H.O. to Chauki Chauraha Police outpost and kept there and brought to the police station and kept there. She was despatched from there to Nari Niketan only at 5 P.M. When A.C.J.M. II had passed orders for Nidhi being kept at Nari Niketan Bareilly K.C. Tyagi I.O. was under obligation to take her from court to Nari Niketan straightway without any delay

whatsoever but she was brought back to the police station and lodged there and only afterwards she was despatched from there for Nari Niketan. Then on 29.7.93 while being taken to the court for the recording of her statement under Section 164 Cr.P.C. Nidhi was brought from Nari Niketan to the police station and there J.C. Upadhyay S.H.O. commanded her to speak that which he had asked her to speak and if she did not make her statement accordingly and went with Charanjit Singh then she would not be spared by him and he would ensure that she underwent miserable life time. He further told her that if she cultivated enmity with the police its consequences were only too obvious. So the torture extended upto 29.7.93. Torture is not merely physical, there may be mental torture and psychological torture calculated to create fright and submission to the demands or commands. When the threats proceed from a person in Authority and that too by a police officer the mental torture caused by it is even more grave.

5. This clearly brings out not only highhandedness of the police but also uncivilised behaviour on their part. It is difficult to understand why Sukhpal Singh, S.S.I. assaulted Nidhi on her leg with Danda and poked it in her stomach. Where was the need to threaten her? As rightly pointed out in the report that torture is not merely physical but may even consist of mental and psychological torture calculated to create fright to make her submit to the demands of the police?

A further reading of the report shows:

- (i) fabrication;
- (ii) illegal arrest;
- (iii) without personal knowledge or credible information that the arrested persons were involved in a cognizable offence; and
- (iv) illegality of verbal order of arrest not contemplated under Section 55 Cr. P.C.

This again is a blatant abuse of law.

6. The report clearly holds Narendrapal Singh S.I. of indulging in illegal arrest and detention in arresting Charanjit Singh Bagga and Rajinder Singh Bagga. Further, both of them were tortured as they were given Danda blows at police station on 23rd July, 1993. The report blames J.C. Upadhyay, S.H.O. and K.C. Tyagi, I.O. for the wrongful detention of Nidhi. It concludes :

The detention of a married woman in custody who is not an accused on the pretext of her being a victim of abduction and rape which never was to her knowledge and to the knowledge of the police officers concerned aforesaid is itself a great mental torture for her which cannot be compensated later but here we have found that she was tortured otherwise also by threats of violence to her and to her husband and his family and was given physical violence calculated to instil fear in her mind and compel her to yield and to abandon her marriage with Charanjit Singh Bagga which had been duly performed in Arya Samaj Bhoor and which had been duly registered in the office of Registrar of Hindu Marriages under the U.P. Hindu Marriage Registration Rules, 1973 framed by the Governor in exercise of the powers conferred by Section 8 of the Hindu Marriage Act, 1955 (Act No. XXV of 1955). She was made to write a statement as commanded by J.C. Upadhyay S.H.O. and Sukhpal Singh SSI on 26.7.93 which was reproduced by the I.O. in the case diary as her statement under Section 161 Cr. P.C. The physical and mental torture was given to Nidhi on 24th July, 1993 and 25th July, 1993 by J.C. Upadhyay S.H.O., Sukhpal Singh and SSI and Narendrapal Singh S.I. but on 26.7.93 it was done by only J.C. Upadhyay S.H.O. and Sukhpal Singh S.S.I. and there was no participation of K.C. Tyagi I.O. in the torture and harassment dated 24.7.93, 25.7.93 and 26.7.93.

7. On a perusal of all the above, we are really pained to note that such things should happen in a country which is still governed by the rule of law. We cannot but express our strong displeasure and disapproval of the conduct of the concerned police officers. Therefore, we issue the following directions :

1. The State of Uttar Pradesh will take immediate steps to launch prosecution against all the police officers involved in this sordid affair.
2. The State shall pay a compensation of Rs. 10,000 to Nidhi, Rs. 10,000 to Charanjit Singh Bagga and Rs. 5,000 to each of the other persons who were illegally detained and humiliated for no fault of theirs. Time for making payment will be three months from the date of this judgment. Upon such payment it will be open to the State to recover personally the amount of compensation from the concerned police officers.
8. Writ Petition shall stand disposed of in view of the above terms.