

INDER SINGH
v.
STATE OF PUNJAB AND ORS.

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MAY 10, 1995

[A.M. AHMADI CJ, DR. A.S. ANAND AND S.P. BHARUCHA, JJ.]

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Constitution of India, 1950:

Article 32—Habeas Corpus Petition—Punjab Police party abducting seven persons—Subsequently all the seven became untraceable—Supreme Court ordering CBI investigation—Report concluded that the seven persons were in all probability killed—Appropriate action against erring officials ordered—Legal representatives of each of the seven persons to be paid Rs. 1.50 lakh—State to recover the same from the guilty when they are identified.

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This habeas corpus petition sought the release of 7 persons. This Court directed an enquiry to be conducted by the Director of Central Bureau of Investigation. Accordingly the enquiry was conducted and the report established that a Punjab Police Officer of the rank of Deputy Superintendent of Police, upon suspicion that the 7 persons were involved in the abduction of his brother by militants, led a police party unlawfully to their house and abducted them; they were kept under unlawful detention in police stations in Punjab and thereafter they were untraceable; and that it was reasonable to conclude that in all probability they were killed by those who had abducted them.

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On behalf of the State of Punjab and the DGP, it was inter alia submitted that the Punjab Police should revive the commendation of the Court as the Punjab Police had acted on its own to discover the crime and to take action against its errant officers and men.

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Disposing of the Writ Petition, this Court

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HELD : 1. The Punjab Police would appear to have forgotten that it was a police force and that the primary duty of those in uniform is, to uphold law and order and protect the citizen. If members of police force resort to illegal abduction and assassination, if other members of that police force do not record and investigate complaints in this behalf for

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A long periods of time, if those who had been abducted are found to have been unlawfully detained in police stations in the concerned State prior to their probable assassination, the case is not one of errant behaviour by a few members of that police force. On the contrary it betrays scant respect for the life and liberty of innocent citizens and exposes the willingness of other in uniform to lend a helping hand to one who wreaks private vengeance on mere suspicion. [313-H, 314-A-B]

B 2. This Court has in recent times come across far too many instances where the police have acted not to uphold the law and protect the citizen but in aid of a private cause and to oppress the citizen. It is a trend that bodes ill for the country, and it must be promptly checked. The D.C.P., Punjab is expected to take a serious view in such cases if he is minded to protect the image of the police force which he is heading. He can ill afford to shut his eyes to the nose-dive that it is taking with such ghastly incidents surfacing at regular intervals. Nor can the Home Department of the Central Government afford to appear to be a helpless silent spectator. [314-C-D]

C 3. When the police force of a State acts as the Punjab Police has done in this case, the State whose arm that force is, must bear the consequences. It must do so in token of its failure to enforce law and order and protect its citizens and to compensate in some measure those who have suffered by reason of such failure. The State of Punjab is directed to pay to the legal representatives of each of the said 7 persons the amount of Rs. 1.50 lakhs within 2 weeks. Later when the guilty are identified the State should endeavour to recover the said amount which is the tax-payers' money.

[314-E-F]

D 4. The prosecution of those who have been charge-sheeted in connection with the abduction and disappearance of the said 7 persons should be expeditiously conducted under the supervision of the Crime Branch of the Punjab Police. The court trying the accused shall decide the case on the evidence that may be laid before it without being unduly influenced by what is stated in this order. [314-G]

E 5. Disciplinary inquiries must be started against the accused as also against Sita Ram the then SSP., Batala and the then DIG, Border Range, Amritsar. Others responsible for delaying the registration of the complaint and inquiry thereon must also be identified and proceeded against.

[314-H]

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CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Crl.) No. A
221 of 1994.

(Under Article 32 of the Constitution of India).

R.S. Sodhi for the Petitioner.

K.T.S. Tulsi, Additional Solicitor General, R.S. Suri, Mukul Mudgal
and Ranbir Yadav for the Respondents. B

The following Order of the Court was delivered:

This is habeas corpus petition to secure the release of Sadhu Singh, C
Gurdeep Singh, Amanjit Singh, Hardev Singh, Davinder Singh, Sukhdev
Singh and Sharanjit Singh. On 15th September, 1994, having considered the
pleadings and the arguments of learned counsel, we passed a detailed
order. This order must be read with that earlier order.

For the reasons set out in the earlier order, we directed that an D
enquiry should be conducted by the Director of the Central Bureau of
Investigation, which would cover :

"(a) the circumstances of the abduction of said 7 persons (b) their E
liquidation;(c) how it was that the inquiry into the complaint was
delayed from 25th January, 1992, when it was received by the office
of the 2nd respondent, till 23rd March, 1994, when the case was
registered; (d) whether it is in conformity with good police ad-
ministration that a complaint of abduction of 7 citizens by a high F
ranking police officer should not be required to be brought to the
attention of the officer in command of the police force even after
the allegations made in the complaint had been found to be correct
on inquiry by a specially designated officer, (e) whether there has
been an attempt to cover-up the misdoings of police officers and
policeman involved in the abduction of the said 7 persons and their
subsequent incarceration or liquidation; and (f) if so, who was G
involved therein."

We now have before us the report dated 15th December, 1994, of
the Director of Central Bureau of Investigation, in which he concludes:

(a) The said 7 persons were forcibly removed from their farmhouse H

A in village Bagga, District Majitha, State of Punjab on 29th October, 1991, by a police party led by Baldev Singh, D.S.P. The abduction was effected because it was suspected by the said Baldev Singh that the said 7 persons had had a role to play in the abduction by terrorists of his younger brother.

B (b) It could reasonably be concluded that the said 7 persons had been killed. No evidence showed that any of the said 7 persons was still alive. As the incident had taken place more than three years back, the chances of recovering the bodies or other evidence was minimal.

C (c) The writ petitioner had made written complaint two and a half months after the abduction. During that period he had approached the said Baldev Singh and Sita Ram, S.S.P., Batala, a number of times. Their assurances led to the delay in his complaining to higher officers. The said Sita Ram had not intervened when the 7 persons were still alive and in unlawful custody. An intervention at this stage would have prevented their liquidation. The enquiry into the writ petitioner a complaint remained with D the D.I.G., Border Range, Amritsar, for more than 8 months and with the SSP, Batala, for 2 months. The Crime Branch of the Punjab Police had pursued the matter and, disagreeing with the recommendations of the District and Range officers, had registered a case and charge-sheeted 9 accused (the alleged members of the policy party).

E (d) The file was at no stage put up before the Director General of Police, Punjab, but it would have been "prudent and administratively correct to do so".

F (e) The abduction of the said 7 persons was first brought to the notice of the the said Sita Ram a few days after the incident. No enquiry was made by him. No complaint was recorded or investigated.

G (f) On receipt of the information and, later, of the written complaint, the said Sita Ram should have taken immediate action and initiated a regular enquiry, if not investigation.

H The C.B.I. report establishes that a Punjab Police officer of the high rank of Deputy Superintendent of Police had, upon the suspicion that the said 7 persons might have been concerned in the abduction of his brother by militants, led a police party unlawfully to their house and abducted them. The said 7 persons had then been kept under unlawful detention in

police stations in the State of Punjab, for example, at Kalanaur and Dera Baba Nanak. The said 7 persons are untraceable. It is wholly reasonable, therefore, to conclude that in all probability they were killed by those who abducted them. A

Mr. K.T.S. Tulsi, learned Additional Solicitor General, appearing for the 1st and 2nd respondents, namely, the State of Punjab and the Director General of Police, Punjab, submitted that the Punjab Police should receive the "commendation of this Court" : the Punjab Police had acted on its own to discover the crime and to take action against its errant officers and men and this was an indication of "the percolation of constitutional culture" to the Punjab Police. B C

A Deputy Superintendent of the Punjab Police and a police party abducted the said 7 persons. The Deputy Superintendent of Police misused the machinery of the police to wreak private vengeance upon the said 7 persons. The said 7 persons, while they were alive, were unlawfully detained in police stations in the State of Punjab. Their whereabouts are not known till today. There can be little doubt that they were in all probability liquidated by those who abducted them. D

Sita Ram, the SSP, Batala, though he received oral and then written information in regard to the abduction, chose to do nothing while the said 7 persons were still alive. He sat on the complaint for two months. The D.I.G., Border Range, Amritsar, sat on it for 8 months. It is only the Crime Branch of the Punjab Police who acted, recognising where its duty lay. E

Though an officer as senior as a Deputy Superintendent of Police had led a police party to abduct the said 7 persons, and they were thereafter untraceable, the matter was not serious enough to be brought to the attention of the D.G.P., Punjab, having regard to the delegation of responsibilities made by him. To put it in the very mild words of the C.B.I. report, it would have been " prudent and administratively correct to do so". F

In the background of these facts, the Punjab Police as a whole merit this Court's disapprobation, the Crime Branch thereof a word of praise. G

The Punjab Police would appear to have forgotten that it was a police force and that the primary duty of those in uniform is to uphold law and order and protect the citizen. If members of a police force resort to illegal H

A abduction and assassination, if other members of that police force do not record and investigate complaints in this behalf for long periods of time, if those who had been abducted are found to have been unlawfully detained in police stations in the concerned State prior to their probable assassination, the case is not one of errant behaviour by a few members of that police force. We do not see that "constitutional culture" as Mr. Tulsi put it, had percolated to the Punjab Police. On the contrary it betrays scant **B** for the life and liberty of innocent citizens and exposes the willingness of others in uniform to lend a helping hand to one who wreaks private vengeance of mere suspicion.

C This court has in recent times come across far too many instances where the police have acted not to uphold the law and protect the citizen but in aid of a private cause and to oppress the citizen. It is a trend that bodes ill for the country, and it must be promptly checked. We would expect the D.G.P., Punjab, to take a serious view in such cases if he is minded to protect the image of the police force which he is heading. He **D** can ill afford to shut his eyes to the nose-dive that it is taking with such ghastly incidents surfacing at regular intervals. Nor can the Home Department of the Central Government afford to appeal to be a helpless silent spectator.

E When the police force of a State acts as the Punjab Police has done in this case, the State whose arm that force is must bear the consequences. It must do so in token of its failure to enforce law and order and protect its citizens and to compensate in some measure those who have suffered by reason of such failure, we direct the State of Punjab to pay to the legal representatives of each of the said 7 persons the amount of Rs. 1.50 lakhs **F** with in 2 weeks. Later when the guilty are identified the State should endeavour to recover the said amount which is the tax-payers money.

G The prosecution of those who have been charge-sheeted in connection with the abduction and disappearance of the said 7 persons should be expeditiously conducted under the supervision of the Crime Branch of the Punjab Police. We would like to caution the court trying the accused that it should decide the case on the evidence that may be laid before it without being unduly influenced by what we have said hereinbefore.

H Disciplinary inquiries must be started against the aforesaid accused as also the said Sita Ram and the then DIG, Border Range, Amritsar.

Others responsible for delaying the registration of the complaint and inquiry thereon must also be identified and proceeded against. A

The State of Punjab shall pay to the petitioner the costs of the writ petition, quantified at Rs. 25,000.

Before we part with the matter, we must express our appreciation of the efforts of the Director of the Central Bureau of Investigation. So as not to prejudice the prosecution aforementioned, we deem it proper that his report should remain confidential, being preserved in a sealed envelope in the custody of the Registrar General of this Court. B

A copy of this order will be sent by the Registrar General of this court to the Secretary in the Home Department of the Government of India for appropriate action. C

The writ petition is disposed of accordingly.

G.N.

Petition disposed of.

