

CL

36

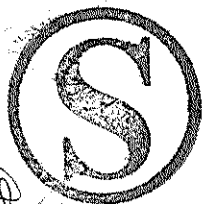
**IN THE HIGH COURT OF JUDICATURE AT BILASPUR,**  
**CHHATTISGARH**

**WRIT PETITION (HC) NO. 12/2013**

**PETITIONER** : OFFICE REFERENCE  
(SMT. KULVINDER KAUR)

**VERSUS**

**RESPONDENT** : STATE OF CHHATTISGARH



79

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Division Bench**

-----  
**Coram:**      **Hon'ble Shri Sunil Kumar Sinha &**  
                  **Hon'ble Shri R.N. Chandrakar, JJ.**  
-----

**Writ Petition (HC) No. 12 of 2013**

**Petitioner**

Smt. Kulvinder Kaur w/o. Balraj Singh.

Vs.

**Respondents**

State of Chhattisgarh and others.

-----  
**Present:**

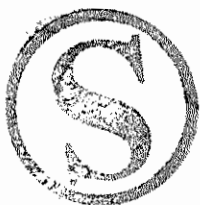
Mr. S.C Verma, counsel for the petitioner.

Mr. A.S. Kachhwaha, Dy. Advocate General for the State, who is also representing SHO, Civil Lines, Police Station and Officer Incharge of Cyber Cell, Bilaspur.

-----  
**ORDER**  
**(30-4-2013)**

The following order of the Court was dictated on Board by  
**Sunil Kumar Sinha, J.**

- 1) Heard.
- 2) Petitioner Smt. Kulvinder Kaur is resident of Raipur. On 23-3-2013 she made an application on the name of Hon'ble the Chief Justice which was received by the Additional Registrar (J) on the same day. In the said application, she made allegations that her husband Balraj Singh (hereinafter referred to as "detenue") was taken into custody by the Crime Branch/Civil Line Police Station, Bilaspur on 12-3-2013 and they have



80

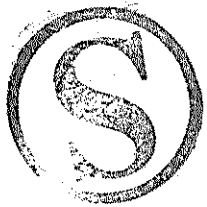
not produced him before any court, therefore, he should be freed from the Police and necessary action should be taken.

- 3) The said application of the petitioner was treated as a Habeas Corpus petition and reference thereof was made to this court. The matter came before this court on 2-4-2013, a report was called and it was fixed on 3-4-2013. On 3-4-2013, the Deputy Advocate General informed this court that the alleged detainee was arrested on 2-4-2013 in connection with Crime No. 53 of 2013 of Police Station Hiri and he was being produced before the concerned Magistrate on 3-4-2013. Since the alleged detainee was being produced before the court on 3-4-2013, this court adjourned the matter for 8-4-2013 and directed that the case diary relating to arrest and production of the detainee shall be produced before this court.
- 4) On 8-4-2013 all the above documents were produced and the alleged detainee was also produced before this Court. On the said date various allegations were made against the Police and it was stated that the husband of the petitioner was throughout kept in Police Station, Civil Line, Bilaspur from 12-3-2013 till his production before the Magistrate. He (detenu) was seen in Civil Lines Police Station, Bilaspur, on 14<sup>th</sup> or 15<sup>th</sup> of March 2013 by the petitioner which facts the petitioner also brought on record by her affidavit and she also stated in the affidavit that in this time she had met the Superintendent of Police on 18-3-2013, who had sent her to Civil Lines, Police Station, Bilaspur, with the direction that there the petitioner would be allowed to meet her husband.

5) Since the allegations regarding illegal detention were brought on record, this court by order dated 12-4-2013 directed the Station House Officer, Civil Lines Police Station, Bilaspur and Officer-in-Charge, Crime Branch, Bilaspur to file their counter affidavits in relation to the above allegations.

6) Later on it was stated that the crime branch was not existing on the relevant date and the building of the Crime Branch, which was situated near Civil Lines Police Station, was under the control of the Civil Lines Police and office of Cyber Cell is running therein. The copies of paper book were handed over to the Officer-in-Charges through the Deputy Advocate General and then Officer-in-Charge of Police Station, Civil Lines and Cyber Cell both have filed their affidavits.

7) In the two counter affidavits filed by the Station House Officer of Civil Lines Police Station, Bilaspur i.e., Mr. G.R. Baghel and Officer-in-Charge of Cyber Cell, Mr. Prabhakar Tiwari, it has been categorically stated that the husband of the petitioner was never arrested by their Police Stations as are alleged by the petitioner. They have also stated on oath that the husband of the petitioner was never detained either in Police Station, Civil Lines, Bilaspur or in the office of the Cyber Cell and all allegations made in this regard by the petitioner are false and baseless. Besides the above, it was also brought to the notice of this court that the husband of the petitioner Balraj Singh was arrested as an accused in Crime No.53/2013 of Police Station Hiri, Dist. Bilaspur, CG.,



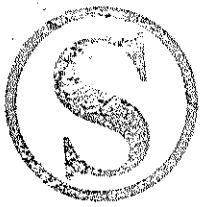
82

and was produced before the concerned Magistrate on 3-4-2013 and was sent to judicial remand by the said Court.

8) Mr. Verma, has argued that the petitioner has stated in affidavit that she had seen her husband on two occasions in Police Station, Civil Lines, Bilaspur, i.e., on 15-3-2013 and 16-3-2013 and thus, he was in custody in Police Station, Civil Lines, Bilaspur, from 12-3-2013 and was ultimately produced before the Magistrate on 3-4-2013 i.e., after more than 21 – 22 days, therefore, it was a clear case of illegal detention and action should be taken against them.

9) Mr. Kachhwaha, on the other hand, has argued that on the basis of counter affidavits submitted by the Police officials as also on the case dairy of above crime number, it does not appear that the husband of the petitioner was kept in illegal custody of the Police and the allegations appears to be false.

10) Basically this court has treated the application of the petitioner as a writ petition for issuance of a writ of Habeas Corpus to produce the alleged detainee as the petitioner had alleged that he was in illegal custody of the concerned Police. The husband of the petitioner, thereafter, was produced before this court and it was made clear that he has been remanded to judicial custody by the concerned Magistrate on 3-4-2013. In this manner, the very purpose of the petition was already served after production of the husband of the petitioner, but looking to the allegations of long illegal detention, this court called upon the concerned respondents to file reply taking a view that the matter related to personal



83

liberty and alleged violation of the provisions of Code of Criminal Procedure.

11) Let us firstly remind ourselves about the basic provisions in this regard. Section 57 of the Code of Criminal Procedure provides that no police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty- four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate' s Court.

12) Further, Section 167(1) provides that whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty- four hours fixed by section 57, and there are grounds for believing that the accusation or information is well- founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub- inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary relating to the case, and shall at the same time forward the accused to such Magistrate.

13) In the instant case, the allegations are that the husband of the petitioner was in the custody of Civil Lines Police Station, Bilaspur from 12-3-2013, but he was not produced before any Magistrate prior to 3-4-2013 when his first remand was taken for the alleged offence of Hira Police Station which was registered under Section 394/34 IPC.

14) Since the allegations and counter allegation are made by both sides and it is not possible for this court to take any view in the alleged



84

incident of illegal detention, we deem it appropriate to direct for an enquiry in this regard.

15) We, therefore, direct that the Inspector General of Police, Bilaspur Range shall conduct an enquiry in the alleged illegal detention of the husband of the petitioner from 12-3-2013 to 1-4-2013 (actual date of arrest said by the Police) keeping in mind the above basic provisions and if the allegations made are found true, he shall take appropriate action, in accordance with law. We further direct that the enquiry shall be completed within a period of three months from the date of receipt of a copy of this order and the relevant documents.

16) Registry is directed to prepare a complete set of paper book containing all the relevant documents and hand over the same to the Deputy Advocate General, who shall remit it to the Inspector General of Police, Bilaspur Range, and shall submit a report to the Registry, which shall be tagged in the records of the writ petition.

17) With the above observations/directions, the writ petition stands finally disposed of.

Sd/-  
**Sunil Kumar Sinha**  
Judge

Sd/-  
**R.N. Chandrakar**  
Judge

Raju