

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP No.932 of 2019

Date of Decision:-06.11.2019

Gurpreet Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Surinder Gandhi, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

MANOJ BAJAJ J.(Oral)

Gurpreet Singh-petitioner had brought this petition under Article 226 of the Constitution of India for issuance of writ in the nature of habeas corpus for release of the detenues (33 in numbers), detailed in para 2 of the petition and sought for their release from the alleged illegal custody of respondent No.4.

On 14.10.2019, this Court had passed the following order :-

“Learned counsel for the petitioner contends that the persons, as mentioned in para No.2 of the petition, are kept as bonded labour by the private respondents.

In terms of Section 12 of Bonded Labour System (Abolition) Act of 1976, it is the duty of the District Magistrate and every officer specified by him/her under Section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his/her jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he/she shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

Notice of motion for 22.10.2019.

On the asking of this Court, Mr. Sidakmeet Singh Sandhu, AAG, Punjab, accepts notice on behalf of respondents No.1 to 3. A copy of complete paper-book be handed over to learned State counsel during the course of the day.

In the meantime, the District Magistrate, Amritsar, shall either himself/herself or shall depute a responsible officer to visit the premises of Marka AB-AB Brick Kiln, village Jethuwal, Police Post Soiya, Tehsil and District Amritsar, and ascertain whether the persons as mentioned in para No.2 of the petition, are in illegal detention at the said brick kiln and if so, they shall be got released forthwith. A report in this regard shall be submitted in the Court on the date fixed.

To be shown in the urgent list.

A copy of this order be given dasti to learned State counsel under signatures of the Bench Secretary of this Court.”

Today the case was listed at serial No.270 and learned counsel

for the petitioner made a prayer for taking up the case and prayed for dismissing the writ petition as infructuous.

On request of learned counsel for the petitioner, the petition was taken up. The prayer made by Mr. Gandhi is vehemently opposed by learned State counsel, who submits that the petitioner is in habit of filing such frivolous petitions. He has filed the reply to the writ petition by way of affidavit of Shivdular Singh Dhillon, Deputy Commissioner-cum-District Magistrate, Amritsar. A copy of the reply has been furnished to learned counsel for the petitioner.

As per the reply, the Sub Divisional Magistrate, Amritsar-II constituted a Vigilance Committee comprising of Tehsildar (Duty Magistrate), Circle Patwari, Labour Inspector, Incharge Local Police Station, which conducted a spot investigation and found that no labour has been confined as detenues and kept as bonded. By visiting the site certain labourers, namely, Bir Singh, Sher Singh, Gurmit Kaur, Parveen, Sahib Singh and Rajo etc. were found working. Upon inquiry, the team came to know that the brick kiln had remained closed for the last about 5-6 years and one Deepak Kumar Bhalla has taken this brick kiln on lease, which is yet to start its work. It was further apprised that the raw bricks are being prepared by the labour. They stated that the labour has got no complaint against the brick kiln owner as they were being provided basic amenities and there is no restriction on their movement. They ignored their acquaintance with petitioner Gurpreet Singh s/o Bakshish Singh and informed the Committee that the brick kiln owner is making arrangements

to start the brick kiln and has brought new labour, who are residing in the newly constructed houses on the other side of the brick kiln. It was further stated that the brick kiln owner paid Rs.10,000/- to each family at the villages like Chogawan, Shahoor, Blaer etc., from where they were recruited. Apart from it, a sum of Rs.5000/- to each family was further paid on their arrival at the brick kiln for work.

Upon visit of the Committee at the brick kiln, the Sarpanch of village Jethuwal and the owner of the brick kiln were found present there. The head of the village expressed gratitude to Mr. Deepak Bhalla for providing employment to the residents of the village. The newly constructed houses were inspected and petitioner Gurpreet Singh was found present there. On seeing the Labour Inspector Mr. Jaspal Kumar, petitioner tried to run away. It was informed by Mr. Jaspal Kumar, Labour Inspector that previously also this person (petitioner) had filed a writ petition (CWP-261-2019) against the brick kiln situated at Dera Baba Nanak, as he was posted there at that time.

The reports and statements of the members of the Committee are enclosed with the reply. The relevant conclusion of the report reads as under :-

“After going through the statements and report of the Sub Divisional Magistrate, Amritsar-II, the undersigned has come to the conclusion that no labour has been detained illegally. It appears that the petitioner is a habitual complainant and is trying to mislead the Hon'ble Court and the statements made in the writ petition are false and maliciously frivolous. The

constituted committee has found no evidence of bonded labour at the kiln. The copies of the statements duly signed by all the committee members in Punjabi are annexed herewith (Annexures R-1 to R-3). A copy of the report received from the concerned Sub Divisional Magistrate is annexed as Annexure R-4.”

A perusal of the writ petition reveals that the petitioner claimed himself to be the close relative and friend of the alleged detenues and invoked the extraordinary writ jurisdiction of this Court under Article 226 Constitution of India. As per averments, the petitioner ran away from the clutches of respondent No.4 in order to file the writ petition for release of the detenues from illegal custody of respondent No.4.

At this stage, Mr. Gandhi prays for an adjournment to address arguments as copy of the reply has been received by him in the Court.

Since this case has been taken up out of turn on the request of Mr. Gandhi, therefore, this Court does not find any reason to adjourn the case and, therefore, the prayer for adjournment is declined.

Considering the pleadings and the report of the Committee, this Court finds that the petitioner brought this writ petition on false and frivolous averments. The pleadings in the petition were supported by the affidavit of Gurpreet Singh petitioner, who had affirmed the correctness of the pleadings, however, in support of the petition, no document was filed by him. Even, no representation was submitted by the petitioner to the Deputy Commissioner concerned in respect of the alleged illegal detention of the alleged detenues and approached this Court straight away.

Looking into the conduct of the petitioner, this Court finds it a fit case for burdening the petitioner with a cost and, therefore, a cost of Rs.25,000/- is imposed upon the petitioner, to be deposited by him with the Legal Services Authority, Amritsar. The Deputy Commissioner, Amritsar is directed to ensure the recovery of the cost as arrears of land revenue. Apart from it, it shall be open for the Deputy Commissioner, Amritsar to initiate any other proceedings against the petitioner in accordance with law.

November 06, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No