

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

121

CRWP-7513-2020

Date of decision: 21.09.2020

Shaukeen

.....Petitioner

Versus

State of Punjab & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Balbir Singh Saini, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed this petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus with request for appointment of a Warrant Officer to visit the spot and to get the detainee named in para No.3 of the petition released from illegal custody of respondents No.4 and 5.

Learned counsel for the petitioner has submitted that detainee Lokesh has been illegally detained by respondents No.4 and 5 at their Brick kiln Marka Raju Brick Kiln situated in the area of village Chotian, P.S. Jakhal, District Sangrur, Punjab and prays that in view of the observations in “**Murti versus The State of Punjab and others**”, LPA No. 32 of 2013 decided on 11.01.2013, the District Magistrate Sangrur may be directed to treat this writ petition as a complaint under the Bonded Labour System (Abolition) Act, 1976 and take immediate action in accordance with law.

Notice of motion restricted to respondents No.1 to 3 only at this stage.

Pursuant to supply of advance copy of the petition, Mr.H.S.

Multani, Asstt. A.G. Punjab has appeared and accepted notice on behalf of respondents No.1 to 3.

I have heard the learned counsel for the petitioner and learned State counsel.

Hon'ble Division Bench of this Court observed in **“Murti versus The State of Punjab and others”**, LPA No. 32 of 2013 decided on 11.01.2013, as under:-

“It may be mentioned here that the allegations of the appellant in the writ petition are that the alleged detenues mentioned in para No.3 of the writ petition who are working as labourers at the brick kiln of respondent Nos.4 & 5 are being kept as bonded labours. There can indeed be no doubt that if a labourer has been detained as bonded labour, it amounts to an offence under Sections 16 & 17 of the Bonded Labour (Abolition) Act, 1976. We, however, clarify that the aforesaid observation does not mean that the allegations levelled by the appellant have been accepted. Suffice it to observe that under the Act, the District Magistrate is under statutory obligation to hold a fact finding enquiry as and when a complaint alleging violation of the provisions of Bonded Labour (Abolition) Act, 1976 is received. Since the appellant in the instant case has specifically averred that the persons mentioned in para No.3 of the writ petition have been detained as bonded labourers, we allow this appeal and set aside / modify the order dated 9.1.2013 passed by the learned Single Judge to the extent that the petitioner's writ petition is disposed of with a direction to the District Magistrate, Sangrur, to treat this writ petition as a complaint under the 1976 Act and take immediate action in accordance with law, within a period of one week from the date of receiving a certified copy of this order alongwith a copy of the writ petition.”

In view of the above referred judicial precedent, this Criminal Writ Petition is disposed of with a direction to respondent No.2–District Magistrate-cum-Deputy Commissioner, Sangrur to treat this writ petition as a complaint under the Bonded Labour System (Abolition) Act, 1976 and take immediate action in accordance with law within a period of one week from the date of receiving a copy of

this order along with a copy of the writ petition.

A copy of this order be supplied to learned State counsel and be also sent to respondent No.2-District Magistrate-cum-Deputy Commissioner, Sangrur for ensuring requisite compliance.

21.09.2020

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No