

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRWP-853-2021

Date of decision : 28.1.2021

Kamlesh

... Petitioner

VERSUS

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Aditya Partap Singh, Advocate,
for the petitioner.

KARAMJIT SINGH, J.(Oral)

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

This petition has been filed under Article 226 of the
Constitution of India for issuance of a writ in the nature of Habeas Corpus
directing official respondents to get the detenues, mentioned in para No. 2
of the petition, released from the illegal detention of private respondents.

Learned counsel for the petitioner confines his argument to the
extent that District Magistrate, Panchkula be deputed to decide the case and
the present petition be disposed of with a direction to respondent No. 2 to
treat this petition as a complaint under the Bonded Labour System
(Abolition) Act, 1976 and take immediate action in accordance with law
within a stipulated period.

A Division Bench of this Court in LPA No. 32 of 2013, titled
'Murti versus The State of Punjab and others', has held 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.”

Accordingly, this Criminal Writ Petition is disposed of with a direction to respondent No. 2 to treat this 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 receipt of a certified copy of this order along with a copy of the writ petition.

January 28, 2021
Paritosh Kumar

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No