

**131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRWP-1796-2021
Decided on : 19.02.2021

Hasim . . . Petitioner(s)

Versus

State of Punjab and others . . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Narinder Dhull, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus with a roving writ, the Warrant Officer may kindly be appointed to visit the spot and if the detinue mentioned in para 4 of the petition are found in illegal custody, they be set at liberty forthwith.

It has been *inter alia* alleged that the petitioner and the alleged detenues mentioned in para 4 of the petition are being compelled to work in the brick kiln of respondent No. 4 against their wishes and without wages being paid to them, which is in direct contravention of Article 226 of the Constitution of India. The learned counsel has referred to the observations made by this Court in **LPA No.32 of 2013**, titled as, “**Murti v. The State of Punjab and others**”, which are 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 09.01.2013 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 along with a copy of the writ petition."

In view of the above, this writ petition is disposed of with a direction to the respondent No.2 i.e. District Magistrate-cum-Deputy Commissioner, Mohali, to treat this petition as a complaint and to take immediate and appropriate action as may be required in accordance with law at the earliest but not later than one week from the date of receipt of a certified copy of this order along with a copy of the criminal writ petition.

(MANJARI NEHRU KAUL)
JUDGE

19.02.2021

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No