

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

110 - CRWP-4741-2021 (O&M)

Date of Decision: 21.05.2021

Mangal Singh

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Kuldip Singh, Advocate for the petitioner

Mr. MS Nagra, AAG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Mangal Singh, stated to be aged 71 years, has filed the present petition *inter alia* with a prayer for issuance of a writ in the nature of *Habeas Corpus* for the release of the detenues mentioned in Para No.3 of the petition, who are statedly to be illegally detained by respondent No.5 and as such Warrant Officer may kindly be appointed to locate the detenues at the premises of respondent No.5.

Learned counsel for the petitioner, by making reference to pleadings in the petition, submits that the petitioner along with other persons were contacted by respondent No.5 to work at their brick kiln. He submits that somehow, the petitioner managed to escape but respondent No.5 has illegally detained 18 persons (named in Para-3 of the petition).

Learned counsel further submits that respondent No.5 has committed an offence under the Provisions of the Bonded Labour (Abolition Act, 1872). In this regard, reliance is placed on the judgment dated 11.01.2013, passed by a Division Bench of this Court in **LPA-32-2013** titled

as ***Murti vs. State of Punjab and others***. Relevant extracts of the said judgment is reproduced hereunder:-

....“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.

Ordered accordingly.

Dasti.

Notice of motion.

On asking of the Court, Mr. MS Nagra, AAG Punjab, accepts notice on behalf of the State.

Without commenting upon merits of the case, this Court deems

District Magistrate, Fazilka to visit the premises of respondent No.5 himself or through an authorized officer and act in accordance with law to ensure the safety of the detainees. It is further directed to record the statement of detainees (as named in Para 3 of the petition) and in case, they are found to be detained in illegal custody of respondent No.5, the concerned District Magistrate may proceed in accordance with law as per the Government instructions and take effective steps that may be required.

Let the needful be done within two months from the date of receipt of certified copy of this order.

A copy of this order be sent to the District Magistrate, Fazilka (respondent No.2), by the Registry through e-mail or any other mode, so as to enable the said authority to do the needful expeditiously.

So ordered.

21.05.2021

vishal shonkar

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Girish Agnihotri)
Judge

Yes/No
Yes/No