

129

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

CRWP-9119-2021

Date of decision : 21.09.2021

Mukesh Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. D.C. Dhaula, Advocate for the petitioner.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present Criminal Writ Petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of habeas corpus to release the detenues (as mentioned in para 4 of this petition) from the illegal detention of respondent Nos.4 to 6.

It has been averred in the petition that the petitioner and 37 other detenues as mentioned in para 4 of the petition were kept at the brick kiln of respondent Nos.4 to 6 under threat. It is further stated that the private respondents are not allowing the detenues to move anywhere from the brick kiln and they have hired the musclemen to keep a watch on them, thus, the private respondents have violated the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be

referred as “the Act of 1976”) and are also liable to be prosecuted under Sections 3, 6, 9 and 17 of the Act of 1976. It is further submitted that although the petitioner was able to come out from the brick kiln with great difficulty, however, the other detenues as mentioned in para 4 of the petition are still stuck in the brick kiln of the private respondents.

It has been held by this Court in “**Murti versus The State of Punjab and others**”, **LPA No. 32 of 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.”

Accordingly, the present Criminal Writ Petition is disposed of with direction to District Magistrate-cum-Deputy Commissioner, District Sangrur-respondent No.2 to treat this petition as a complaint under the Act of 1976 and take immediate action in accordance with law, within a period of one week from the date of receipt of certified copy of this order alongwith copy of the writ petition.

21.09.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No