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

CRWP-10441-2021

Date of decision : 02.11.2021

Istkar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Chander Shekhar Singhal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present Criminal Writ Petition filed under Article 226 of the Constitution of India is for issuance of a writ in the nature of habeas corpus to release the detenuess (as mentioned in para 4 of this petition) from the illegal detention of respondent Nos.4 and 5 who are stated to be the owner and employee of the Brick Kiln, respectively.

It has been averred in the petition that the petitioner alongwith his family members were contacted by respondent Nos.4 and 5 to work at their brick kiln and it was agreed that some amount would be paid to the petitioners and their family members. It is further stated that an amount of Rs.30,000/- is outstanding and respondent Nos.4 and 5 are taking forcible work from the petitioner and his family members and from

other persons who are detailed in para 4 of the petition. It is further submitted that although the petitioner was able to come out from the brick kiln with great difficulty on 28.10.2021, however, the other detenues as mentioned in para 4 of the petition are still stuck in the brick kiln of the private respondents and the said respondent Nos.4 and 5 have violated the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”) and in this regard, the petitioner has given a representation dated 29.10.2021 (Annexure P-1) to respondent No.2-District Magistrate, Bhiwani.

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, Bhiwani-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.

02.11.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**