

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRWP-10662-2021

Date of decision : 10.11.2021

Harlal

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr.A.K.Kaundal, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

Prayer in the present Criminal Writ Petition filed under Articles 226 of the Constitution of India is for issuance of a writ in the nature of habeas corpus for release of the detenues (mentioned in para 4 of this petition) who are stated to be in illegal detention of respondents no.4 to 6, who are brick kiln owners.

It has been averred in the petition that the petitioner along with 30 other persons as mentioned in para 4 of the petition, were illegally kept in brick kiln of respondents no.4 to 6. It is further averred that at the inception, respondents no.4 to 6 had paid their wages but thereafter, stopped the payment and started taking forcible work from the petitioner and the other detenues. It is further submitted that the petitioner was able to escape from the brick kiln at night on 06.11.2021 but however, the other detenues as mentioned in para 4 of the petition are still

in illegal detention of respondents no.4 to 6 and are being given beatings mercilessly by respondents no.4 to 6 and their musclemen and thus, the act committed by respondents no.4 to 6 is in violation of provision of the Bonded Labour (Abolition) Act, 1976 (in short “the Act of 1976”). The petitioner has also given a representation dated 08.11.2021 to the District Magistrate, Moga (Annexure P-1).

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 a direction to the District Magistrate, District Moga-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.

(VIKAS BAHL)
JUDGE

November 10, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No