

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

121

CRWP-11053-2021

Decided on : 22.11.2021

Mohmmad Salim

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Balbir Singh Saini, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

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 the release of the detenues mentioned in para 4 of the petition who are illegally detained by respondent Nos. 4 and 5 who are the owners of the brick kiln.

It has been averred in the petition that the petitioner along with his family members were contacted by respondent Nos. 4 and 5. on 20.09.2021 who were at their brick kiln for loading and unloading of bricks and respondent No. 4 had agreed to pay Rs.170/- per thousand bricks. It is further averred that in the beginning, the money was paid but then they stopped paying and the balance amount of Rs.20,000/- is due towards respondent Nos. 4 and 5 and thereafter, respondent Nos. 4 and 5 started taking forcible work from the petitioner and their family members and also started humiliating and harassing the petitioner and

his family members and with great difficulty, the petitioner was able to escape from the brick kiln on the night of 18.11.2021. However, the three detenues as has been stated in paragraph 4 of the petition, are still being detained by respondent Nos. 4 and 5 and are being given merciless beatings and the said act of respondent Nos. 4 and 5 is in violation of the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”).

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 Bounded 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, District Jhajjar- 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

22nd November, 2021
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No