

CRWP-11288-2021

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

(122)

CRWP-11288-2021.
Date of Decision:-29.11.2021.

Hanif Ahmad

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Subhash Kumar, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is a criminal writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for appointing a Warrant Officer for the release or for producing the detenues detailed in paragraph 5 of the petition, who are illegally, unlawfully and forcibly detained by the private respondents at the Brick Kiln of respondent No.6.

It has been averred in the present petition that respondent Nos.6 and 7 had contacted the petitioner and the three detenues as mentioned in paragraph 5 of the petition in the month of November, 2021 and since 15.11.2021, the petitioner and the detenues were not provided work nor provided any money or food to eat. The petitioner and the other detenues were also manhandled by the private respondents. It is also

CRWP-11288-2021

averred that the household articles as well as three house carts belonging to the detenues are in the custody of the private respondents. It is further submitted that although the petitioner was able to come out from the brick kiln with great difficulty on 29.11.2021 but the other three detenues as mentioned in paragraph 5 of the petition are still being detained illegally and are not permitted to leave the place and the same is in violation of the provisions of the Bonded Labour (Abolition) Act, 1976 (for short 'the Act of 1976') and in this regard, the petitioner has given a representation dated 29.11.2021 (Annexure P-1) to Deputy Commissioner, Sonipat as well as the District Magistrate Kharkhoda (respondent Nos.2 and 3, respectively).

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

CRWP-11288-2021

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, Kharkhoda-respondent No.3 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 along-with copy of the writ petition.

(VIKAS BAHL)
JUDGE

November 29, 2021.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No