

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRWP-11309-2021

Date of decision : 30.11.2021

Bhura

... Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr.Manish Dadwal, 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 detenues (as mentioned in para 4 of this petition), who are stated to be in the illegal detention of respondents no.4 and 5, who are stated to be the owners of brick kiln.

It is averred in the petition that the petitioner along with his family members were contacted by respondents no.4 and 5 in the month of October, 2021 and employed for loading and unloading of kacha bricks, for which respondent no.4 had agreed to pay Rs.175/-. It is averred that respondents no.4 and 5 stopped making the payment and started taking forcible work from the petitioner and his family members. The petitioner was able to escape from the brick kiln with great difficulty on 26.11.2021,

detained in illegal custody of respondents no.4 and 5 as well as their musclemen, who are not allowing the said persons to come out of the brick kiln. It is further submitted that the said act of respondents no.4 and 5 is in violation of provisions of the Bonded Labour System (Abolition) Act, 1976 (in short 'the Act of 1976') and the petitioner has given a representation dated 27.11.2021 (Annexure P-1) to respondent no.2 in this regard.

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 Sonapat-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 along with copy of the writ petition.

(VIKAS BAHL)
JUDGE

November 30, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No