

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

(124)

CRWP-12056-2021.
Date of Decision:-21.12.2021.

Mohd. Irfan

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (Oral)

This is a criminal writ petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus for appointing a Warrant Officer for the release of the detenues as detailed in Para 4 of the petition, who are stated to be illegally and unlawfully detained by respondent Nos.6 and 7 along with their musclemen.

It has been averred in the petition that respondent Nos.6 and 7 had contacted the petitioner and other detenues for making bricks for their brick kiln in the month of November, 2021 and the petitioner and other detenues had made as many as 30000 bricks and for the same, there is an outstanding amount of Rs.50,000/- due, which has not been paid to the petitioner. The movement of the petitioner and the alleged detenues was restricted and they were not allowed to move out of the brick kiln and with

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great difficulty, the petitioner has been able to escape from the said brick kiln on 21.12.2021 but however, the 5 detenues as detailed in para 4 of the petition are still in the illegal custody of respondent Nos.6 and 7. It is stated that the said act of the respondents is in violation of the mandatory 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 21.12.2021 to the District Magistrate, Patiala.

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

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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 Patiala-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 alongwith copy of the writ petition.

(VIKAS BAHL)
JUDGE

December 21, 2021.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No