

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(119)

CRWP-403-2022 (O&M)
Date of decision: - 13.01.2022

Chhaham Haque

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Rosi, Advocate,
for Mr. M.D. Khan, Advocate
for the petitioner.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-W-44-2022

In view of the averments made in the application, the same is
allowed, as prayed for.

CRWP-403-2022

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 illegally detained by respondent
Nos.4 and 5.

It has been averred in the petition that respondent No.4 and 5
had contacted the petitioner and other detenues in the month of June,

2021 for the loading of bricks and the laborers were accordingly contacted. Respondents No.4 and 5 did not have any kind of licence to migrate the laborers from other States and once the petitioner and other detenues started working for respondents No.4 and 5, they did not allow them to leave the premises and had kept 24 persons, which have been mentioned in paragraph No.4 of the present petition, in their illegal confinement and they have violated the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”). It is submitted that some of the persons, who had been detained, are minors. It is further submitted that the petitioner has given a representation dated 07.01.2022 (Annexure P-2) to respondent No.2- District Magistrate, Nuh (Mewat), however, the detenues have not been released till date.

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 asbonded 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-cum-Deputy Commissioner, Nuh (Mewat), District Nuh-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 five days from the date of receipt of certified copy of this order alongwith copy of the present petition.

January 13, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No