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

CRWP-1160-2022

Date of decision : 08.02.2022

Bidami Devi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.K. Choudhary, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

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 directing respondent No.2 to recover the detenues (as mentioned in the head note and para 3 of the petition) from the illegal custody of respondent Nos.6 and 7 who are running the brick kiln.

It has been averred in the petition that the petitioner alongwith three persons, as detailed in the head note of the petition as well as in para 3 of the petition, were kept by respondent Nos.6 and 7 in their brick kiln for doing labour work. Although, they had done the labour work but neither the wages were paid to them nor respondent Nos.6 and 7 were allowing them to

move out of the said brick kiln. It is further submitted that although the petitioner was able to come out from the brick kiln with great difficulty, however, the other detenues as mentioned in para 3 of the petition are still in the illegal custody of respondent Nos.6 and 7. It is argued that the said act of respondent Nos.6 and 7 is in violation of mandatory provision of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”). With regard to the same, the petitioner has also given a detailed representation dated 02.02.2022 (Annexure P-2) to respondent Nos.2 and 3.

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 direction to District Magistrate-cum-Deputy Commissioner, District Pathankot-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.

08.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No