

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CRWP-2345-2022

Decided on : 14.03.2022

Irfana

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

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

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present Criminal Writ Petition has been filed under Articles 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for the release of the detenues, mentioned in para 4 of the petition, who are illegally detained by respondent Nos. 4 to 6.

Learned counsel for the petitioner has pointed out that due to inadvertence, name of respondent No. 4 has been wrongly mentioned as Pala inasmuch as, respondent No. 4 is Vijay Pal S/o not known, owner of the brick kiln.

On oral request of learned counsel for the petitioner, respondent No. 4 is replaced with Vijay Pal S/o not known, in place of Pala S/o not known.

Registry is directed to carry out the necessary amendment.

It has been averred in the petition that the petitioner alongwith family his members were contacted by the respondent Nos. 4 to 6 on 12.01.2022 to work in their brick kiln and the petitioner and his family members started working in the said brick kiln but, however, the wages were also not duly paid to them and Rs.1,20,000/- is due towards the petitioner from respondent Nos. 4 to 6. It is further averred that the petitioner with great difficulty was able to escape from the said brick kiln at night on 11.03.2022 and 39 other detenues, as mentioned in para 4 of the petition, are still in illegal custody of respondent Nos. 4 to 6. It is further averred that the same is a violation of the provision of mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976” and in this regard, the petitioner has given a representation dated 11.03.2022 (Annexure P-1) to respondent No. 2- District Magistrate, Sonapat.

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 Bounded 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 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 alongwith a copy of the present petition.

(VIKAS BAHL)
JUDGE

March 14th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No