

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

141

CRWP-2838-2022

Decided on : 28.03.2022

Shamshad

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Rajpal Singh, Advocate
for the petitioner.

Mr. Harpreet S. Multani, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus directing respondent Nos. 1 to 4 to release the detenues, detailed in para No. 4 of the petition, who are stated to be in the illegal custody of respondent Nos. 5 to 7.

Learned counsel for the petitioner has submitted that the private respondents No. 5 to 7 contacted the petitioners and the other detenues in U.P. for brick kiln work and had also promised them due wages. However, after the petitioner had put in some work, the petitioner and the other co-labourers were not allowed to move out of the premises of the brick kiln and with great difficulty, the petitioner managed to escape on 27.03.2022. But, however, the other 24 persons, as detailed in paragraph 4 of the petition, are still in the illegal custody of respondent Nos. 5 to 7. He has further submitted that the said act of respondent Nos. 5

to 7 is in violation of the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”).

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 direction to District Magistrate, District Malerkotla- 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.

(VIKAS BAHL)
JUDGE

March 28th, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No