

S.No.127

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

CRWP No.3202 of 2022

Date of Decision:06.04.2022

Jogindra

.....Petitioner

Vs.

The State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL

**Present:- Mr. Chander Shekhar Singhal, Advocate
for the petitioner.**

VIKAS BAHL, J.(ORAL)

This is a criminal writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus for the release of the detainee mentioned in para No.4 of the petition, who is stated to have been illegally detained by respondents No.4 and 5.

It has been averred in the petition that the petitioner along with his wife were contacted by respondents No.4 and 5 on 01.11.2021 to work at their brick kiln of respondent No.4 and the amount was also fixed to be paid. It is further averred that respondents No.4 and 5 were taking forcible work from the petitioner and his wife without making any payment and were also not permitting them to move out freely. The petitioner managed to escape from the brick kiln at night on 03.04.2022. However, his wife, whose name has been mentioned in para No.4 of the petitioner, is still in illegal custody of respondents No.4 and 5, which is in violation of the 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 04.04.2021 (Annexure P-1) to respondent No.2-District Magistrate, Ropar.

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, Ropar-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.

April 06, 2022
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(VIKAS BAHL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No