

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

Sr. No.123

CRWP No.3485 of 2022

Date of Decision: 18.04.2022

Shamshad

.... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Aditya Partap Singh, Advocate for the petitioner.

SANT PARKASH, J. (ORAL)

The instant petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus to release the detenues mentioned in para No.2 of the petition, from the illegal custody of respondents No.4 and 5.

Notice of motion restricted to respondents No.1 to 3 only at this stage.

Mr. Tanvir Joshi, Assistant Advocate General, Punjab accepts notice on behalf of respondents No.1 to 3.

I have heard the learned counsel for the petitioner and learned State counsel.

Hon'ble Division Bench of this Court observed in **LPA No. 32 of 2013** titled **"Murti versus The State of Punjab and others"**, decided on 11.01.2013, 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.”

In view of the above referred judicial precedent, this Criminal Writ Petition is disposed of with a direction to respondent No.2–District Magistrate, Sangrur to treat this petition as a complaint under the Bonded Labour System (Abolition) Act, 1976 and take immediate action in accordance with law within a period of one week from the date of receipt of copy of this order along with copy of the writ petition.

A copy of this order be supplied to learned State counsel and be also sent to respondent No.2–District Magistrate, Sangrur for ensuring requisite compliance.

**(SANT PARKASH)
JUDGE**

18.04.2022
Maninder