

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-W-1232-2022 in/and
CRWP No. 8745 of 2022
Date of Decision: 08.09.2022

Maminul Ali

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vijay Kumar, Advocate,
for the petitioner.

VIKAS BAHL, J. (Oral)CRM-W-1232-2022

This is an application filed for grant of leave under Rule 3-A (1) of Chapter VI, Part B, Volume V of the Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of the averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRWP No. 8745-2022

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 to release the detenues (as mentioned in para 3 of this petition) from the illegal detention of respondent Nos.4 and 5 who are stated to be the owner and employee of the Brick Kiln, respectively.

Learned counsel for the petitioner submits that the petitioner and the persons who have been named in paragraph 3 of the petition were contacted by the private respondents to work in the brick kiln and a rate was fixed. It is submitted that for several months, the wages were not being paid when and the petitioner and the detenues asked for the same, they were abused and it is with great difficulty that the petitioner was able to escape from the said premises on 07.09.2022 but, the persons who have been named in paragraph 3 of the petition, are still in the illegal custody of respondents no. 4 and 5. It is submitted that the said act of respondents no. 4 and 5 is in violation of the mandatory provision of the Bonded Labour (Abolition Act) 1996.

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, 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 copy of the instant writ petition.

September 08, 2022
nitin

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No