

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

CRWP-9940-2022

Date of Decision: October 18, 2022

Deepak

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Hardyal Singh Batth, Advocate for the petitioner.

AMAN CHAUDHARY, J.(Oral)

The petitioner has filed this petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus with request for appointment of a Warrant Officer to visit the spot and to get the detenues named in para No.4 of the petition released from illegal custody of respondent No.4.

Learned counsel has contended that petitioner and his co-labourers, who are detenues mentioned in para 4 of the petition, were contracted by respondent No.4 for moulding kacha bricks for their brick kiln in the month of January, 2022 and the rate for moulding kacha bricks was fixed for Rs.550/- per thousand. He further submits that the petitioner somehow escaped from the brick kiln. He further submits that for the last four months, the payment has not been made as agreed and on demand thereof, the private respondents with the help of hired musclemen started beating mercilessly to the petitioner and the detenues and humiliating the women folk as also the minor children. He also submits that the amount of Rs.80,000/- is outstanding against respondent No.4. He further submits that the petitioner had submitted a representation Annexure P-1 on 11.10.2022 by *dasti* to respondent No.2, however no action thereon has been taken till date.

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

Pursuant to receipt of advance copy of the petition, Mr. Manipal Singh Atwal, DAG, Punjab has appeared and accepts notice on behalf of respondents No.1 to 3.

I have heard the learned counsel for the parties.

It is apposite to refer to a judgment passed by Hon'ble Division Bench of this Court in LPA No. 32 of 2013 "Murti vs the State of Punjab and others", decided on 11.01.2013, wherein it has been held 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 labourers. 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 facts and circumstances of this case and above referred judicial precedent, this Criminal Writ Petition is disposed of with a direction to respondent No.2–District Magistrate, Tarn Taran, Punjab 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 certified copy of this order along with a copy of this writ petition.

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

October 18, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:	Yes	/	No
Whether reportable:	Yes	/	No