

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

158

CRWP-9941-2022(O&M)
Date of decision: 17.10.2022

JASBIR

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ravi Dangi, 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 Nos.6 to 8.

Learned counsel for the petitioner contends that the petitioner along with other detenues mentioned in Para No.4 of the petition started working in the brick kiln in the month of July 2022 for which they were getting Rs.750 per thousand bricks and as of now outstanding wages are to the tune of Rs.70,000/- towards the respondents, which are not being paid to the detenues. Learned counsel contends that the petitioner escaped from the above brick-kiln on the pretext of his medical treatment in the early hours on 17.10.2022. It is his submission that the lives of the detenues are in danger inasmuch as the work is being extracted forcibly from them and their movement is also restricted. He submits that the detenues might be eliminated by the musclemen of the private respondents and that they may also be relocated at any place other from there. He

further submits that the petitioner has already submitted a representation to the District Magistrate, Hisar on 17.10.2022 through Post (Annexure P-1), but no action thereon has yet been taken.

Notice of motion restricted only to respondents No.1 to 5 at this stage.

On the asking of the Court, Ms. Aditi Girdhar, AAG Haryana has appeared and accepts notice on behalf of respondents No.1 to 5.

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, Hisar 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–District Magistrate-cum-Deputy Commissioner, District Hisar, for ensuring requisite compliance.

(AMAN CHAUDHARY)
JUDGE

October 17, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>