

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

Sr. No.139

CRWP-10142-2022

Date of decision : 20.10.2022

Tosib

.....Petitioner(s)

VERSUS

State of Punjab and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None

AMAN CHAUDHARY, J.

The lawyers are abstaining from work today.

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.

It has been averred in the petition that the petitioner along with his co-labourers mentioned in para no.4 of the petition were contracted by respondent No.4 for moulding kacha bricks for brick kiln but for the last four months, he stopped making the payment to them as agreed by him and when the petitioner and detenues demanded the same, with the help of musclemen started giving merciless beatings and illegally confined them against their wishes and consent. A representation dated 19.10.2022, Annexure P-1 was also submitted to respondent No.2, but no action has been taken till date.

Perused the case file.

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, Patiala, 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 sent to respondent No.2–District Magistrate, Patiala, Punjab, for ensuring requisite compliance.

20.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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