

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(129)

CRWP-11231-2022

Date of decision: - 29.11.2022

Mohsin

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Chandra Shekhar Singh, Advocate
for the petitioner.

Mr. Vishal Malik, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

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 by directing the respondents No.1 to 3 to release the detenues (as mentioned in para 4 of this petition), who are stated to be in the illegal custody of respondents No.4 to 6.

Learned counsel for the petitioner has submitted that the petitioner along with other labourers including the persons, who have been mentioned in para No.4 of the present petition, had been doing the work of moulding of *kacha* bricks and an amount of Rs.1,00,000/- approximately was due towards the present petitioner from respondents No.4 to 6 and respondents No.4 and 6 through their muscle-men had detained the petitioner and the detenues as mentioned in para No.4 of the

present petition and with great difficulty, the petitioner was able to leave the premises on the intervening night of 26.11.2022, but however, the detenues as detailed in para No.4 of the petition, are still in the illegal custody of respondents No.4 to 6 and the said act of respondents No.4 to 6 is in violation of the provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”) and in this regard, the petitioner has given a representation to respondent No.2-Deputy Commissioner-cum-District Magistrate, Sonipat.

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 Deputy Commissioner-cum-District Magistrate, Sonipat-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 writ petition.

November 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No