

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRWP-11668-2022
Date of decision : 12.12.2022

Ramdiya

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sunil Kumar Pandey, Advocate
for the petitioner.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a Criminal Writ Petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus to release the detenues (as mentioned in para 4 of this petition) who have been illegally detained by respondents no. 4 to 6.

Learned counsel for the petitioner has submitted that the petitioner along with his family members and the persons who have been mentioned in paragraph 4 of the petition, are working with respondents no.4 to 6 in their brick kiln and since they have not been paid their wages, thus, they protested and thereafter the said respondents have illegally detained them. It is further submitted that although the petitioner was able to escape from the brick kiln on 05.12.2022, however, the other detenues, as mentioned in paragraph 4 of the petition, are still in the illegal custody of respondents no.4 to 6. It is also submitted that the said act of respondents no.4 to 6 has violated the mandatory 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 dated 08.12.2022 (Annexure P-1) to respondent no.2-District

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 a direction to District Magistrate, Moga-respondent no.2 to treat this petition as a complaint under the Act of 1976 and to 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 the present petition.

(VIKAS BAHL)
JUDGE

December 12, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No