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CRWP-11806-2022

JAYKANTA BARMAN

VS

STATE OF HARYANA AND OTHERS

Present: Mr. Shadab Ahmad, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

This is a Criminal Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ of habeas corpus for the release of the detenues, whose names have been mentioned in para 7 of the petition.

Learned counsel for the petitioner has submitted that in the present case, the petitioner alongwith other detenues were contacted by respondents No. 4 and 5 to work in their brick kiln and when the petitioner and the other detenues had gone to get their salary then respondents No. 4 and 5 started beating them and have kept in the illegal detention and the petitioner managed to escape but 14 persons as mentioned in para 7 of the petition are still in the illegal custody of respondents No. 4 and 5. It is further submitted that the said act of respondents No. 4 and 5 is in violation of the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”).

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 District Magistrate, Jhajjar 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 present petition.

(VIKAS BAHL)
JUDGE

14.12.2022

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