

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

CRWP-11867-2022

Date of Decision: 15.12.2022

Rakesh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:-HON'BLE MR. JUSTICE DEEPAK MANCHANDCA

Present: Mr. Aditya Partap Singh, Advocate
for the petitioner.

DEEPAK MANCHANDA J.

The present writ petition has been filed under Article 226 of the Constitution of India praying for issuance of writ in the nature of Habeas Corpus directing the respondents to get detainee namely Dev Kumar mentioned in para No. 2 of the petition, released from the illegal custody of respondent Nos. 4 and 5.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is seeking release of detainee, who had been engaged by respondent Nos. 4 and 5 to work as labourer in the brick kiln owned and operated by the said respondent No. 4 and 5 and that the labour was to be paid @ Rs. 241/- per 1000 kacha bricks. He contends that despite the amount being overdue, the petitioner as well as the other detainee are not being paid their dues and that the detainee has been illegally detained.

It is also submitted that a representation in this regard has already been submitted by the petitioner to the Deputy Commissioner, Karnal. Learned counsel further submits that he will be satisfied in case the respondent No. 2, who is also

System (Abolition) Act, 1976 (hereinafter to be referred as 'the Act of 1976') is directed to take decision on the same in terms of the judgment passed by this Court in LPA No. 32 of 2013 titled as ***Murti Versus the State of Punjab and others***. The relevant extract of the said judgment reads thus:

“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 Bounded 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.

A further reference was also made to the order passed in Criminal Writ

Others which reads thus:

“Accordingly, this Criminal Writ Petition is disposed of with a direction to District Magistrate, Fazilka 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 receiving a certified copy of this order along with a copy of the writ petition.”

In view of the above, the instant petition is disposed of with a direction to the District Magistrate, Karnal, to treat the instant 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 a certified copy of this order along with copy of the criminal writ petition.

Criminal Writ Petition is disposed of in terms as aforesaid.

15.12.2022

Ajay Goswami

(DEEPAK MANCHANDA)
JUDGE

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