

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP 1104 of 2023

Date of Decision: February 03, 2023

Vinod

.....Petitioners

Versus

State of Punjab and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Surinder Gandhi, Advocate for the petitioner.

HARKESH MANUJA, J (ORAL)

By way of present criminal writ petition under Article 226 of the Constitution of India, a prayer has been made for issuance of directions to the official respondents to release the detenues as mentioned in para No.3 as well as their belongings and wages from illegal custody of respondents No.4 & 5 from Brick Kiln Batta Udyog, Village Shankar, Tehsil Nakodar District Jalandhar.

Prima facie, the allegations are about violation of the provisions of the Bonded Labour System (Abolition) Act, 1976, for short 'the Act', which provides for action by District Magistrate and Executive Magistrate under Section 12 and Section 21 of the Act.

It appears that the petitioner has not submitted any representation to the concerned District Magistrate.

Notice of motion to Advocate General, Punjab.

Mr. Amit Shukla, AAG, Punjab, who is present in Court, accepts notice on behalf of respondents No.1 to 3.

A Division Bench of this Court in **LPA No. 32 of 2013**, titled as **Murti versus The State of Punjab and others**, has 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 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, this Criminal Writ Petition is disposed of with a direction to District Magistrate, Jalandhar, to treat this petition as a complaint under the Act and 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 a copy of the writ petition.

February 03, 2023
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no