

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

121

**CRWP-1625-2023
Decided on: 17.02.2023**

Shiv Kumar

..... Petitioner

versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. B. S. Saini, Advocate,
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Present writ petition, under Article 226 of the Constitution of India, has been filed in the nature of *Habeas Corpus*, praying for release of detenues, as detailed in paragraph No. 3 of the petition, from the illegal custody of respondent Nos. 4 and 5.

2. Learned counsel appearing on behalf of the petitioner contends that petitioner as well as other detenues so mentioned in the petition had been engaged by respondents No. 4 and 5, to work as labourers in the brick kiln, which is owned and operated by said respondents. He contends that petitioner and other detenues are forced to work by said respondents without making any payment of dues and that detenues have been illegally detained. However, petitioner was able to escape from the brick kiln.

3. Learned counsel appearing on behalf of the petitioner submits that he will be satisfied in case respondent No. 2 – Deputy Commissioner, SBS, Nagar, Punjab, who is the competent authority in terms of Section 16 and 17 of the Bonded Labour System (Abolition) Act, 1976 (hereinafter to be

referred as 'the Act of 1976') is directed to take decision in terms of the judgment rendered by this Court in the case of **Murti v. State of Punjab and others** (LPA No. 32 of 2013, decided on 11.01.2013). 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 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.”

4. A further reference is also made to the order passed in the case of **Gurnam Singh v. State of Punjab and others** (CRWP No. 4666 of 2020, decided on 08.07.2020), 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.”

5. In view of the above, the instant petition is disposed of with a direction to respondent No. 2 – Deputy Commissioner, SBS, Nagar, Punjab, to look into the grievance of the petitioner, as raised in the instant petition, and in case any substance of truth is found in the allegations, then to take appropriate action under the Act of 1976, 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.

6. Criminal Writ Petition is disposed of in terms as aforesaid.

(SANJAY VASHISTH)
JUDGE

17.02.2023

Riya

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No