

123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-2191-2023

Date of decision: 09.03.2023

Kapil ...Petitioner

vs.

State of Punjab and others ...Respondents

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

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

N.S.Shekhawat J. (Oral)

By way of filing the present criminal writ petition, the petitioner has approached this Court under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus with request for appointment of a Warrant Officer to visit the spot and to get the detenues named in para No.4 of the petition released from illegal custody of respondents No. 4 to 7.

Notice of motion to respondents No.1 to 3, at this stage.

Mr. Vipin Pal Yadav, Additional Advocate General, Punjab accepts notice on behalf of respondents No.1 to 3.

Hon'ble Division Bench of this Court observed in “***Murti versus The State of Punjab and others***”, ***LPA No. 32 of 2013*** decided on 11.01.2013, 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 labourers. 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.”

In view of the above referred judicial precedent, this Criminal Writ Petition is disposed of with a direction to respondent No.2–District Magistrate, Tarn Taran, 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 two weeks from the date of receiving a copy of this order along with a copy of the writ petition.

A copy of this order be supplied to learned State counsel and be also sent to respondent No.2–District Magistrate, Tarn Taran, for ensuring requisite compliance.

(N.S.SHEKHAWAT)
JUDGE

09.03.2023
hemlata

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