

[135] **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP No.2605 of 2023

Date of decision: 16.03.2023

Mirhasan

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Chander Shekhar Singhal, Advocate
for the petitioner.

NAMIT KUMAR, J. (ORAL)

The instant petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus directing the official respondents to get release the detenues mentioned in Para No.4 of the petition, from the illegal custody of respondent Nos.4 & 5.

Notice of motion restricted to respondent Nos.1 to 3 only at this stage.

Mr. Jashanpreet Singh, DAG, Punjab, who is present in the Court accepts notice on behalf of respondent Nos.1 to 3.

I have heard learned counsel for the parties and perused the record.

Hon'ble Division Bench of this Court in *LPA No.32 of 2013* titled as '**Maruti Vs. The State of Punjab and others**', decided on 11.01.2013, observed 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 leveled 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 inquiry as and when a complaint alleging violation of the provisions of the 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 along with a copy of the writ petition.”

In view of the above noticed judicial precedent, this Criminal Writ petition is disposed off with a direction to respondent No.2-District Magistrate, Kapurthala (Punjab) 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 receipt of copy of this order along with copy of the writ petition.

A copy of this order be supplied to the learned State counsel and be also sent to respondent No.2-District Magistrate, Kapurthala (Punjab) immediately, for ensuring requisite compliance.

16.03.2023
Anjal

(NAMIT KUMAR)
JUDGE

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