

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

126

CRWP-3319-2023 (O&M)
Date of decision: 10.04.2023

NIRVAIL SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND ORS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amandeep Singh Gulati, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

The petitioner has filed this petition under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus directing the respondent Nos.4 and 5 to release the detenues mentioned in para No.4 of the petition from their illegal confinement.

Learned counsel contends that the petitioner along with his co-labourers mentioned in para no.4 of the petition were contracted by respondent Nos.4 and 5 for working in the premises of Julka Rice Merchants, they do not make the payment to them as agreed by them and when the petitioner and detenues demanded the same, they were refused and illegally and forcibly detained them against their wishes and consent. The petitioner herein managed to run away from the clutches of respondent Nos.4 and 5.

Notice of motion.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG Punjab accepts notice on behalf of respondent Nos. 1 to 3.

It is apposite to refer to a judgment passed by Hon'ble Division Bench of this Court in LPA No. 32 of 2013 “**Murti vs the State of Punjab and**

others”, decided on 11.01.2013, wherein it has been 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 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 facts and circumstances of this case and above referred judicial precedent, this Criminal Writ Petition is disposed of with a direction to respondent No.2 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 certified copy of this order along with a copy of this writ petition.

A copy of this order be sent to respondent No.2 for ensuring requisite compliance.

(AMAN CHAUDHARY)
JUDGE

April 10, 2023
M.Kamra

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