

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CRWP-3736-2023 (O&M)
Decided on : 20.04.2023

Balwinder Singh

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Nisha Rana, Advocate
for the petitioners.

SANJAY VASHISTH, J. (Oral)

CRM-W-546-2023

1. This is an application filed under Section 482 Cr.P.C., for placing on record Annexure P-4 (representation sent to District Magistrate along with Gmail receipt), and amended memo of parties, in the interest of justice.
2. Though, there is no separate application for making amendment in the memo of parties, but on oral request of counsel for the applicant-petitioner, same is allowed and the District Magistrate, Hoshiarpur, is allowed to be impleaded as respondent No.2 in the array of respondents. Besides this, Annexure P-4 filed along with the application is also taken on record, subject to all just exceptions.
3. Amended memo of parties filed along with the application is also taken on record, subject to all just exceptions. Office to tag the same at appropriate place.
4. CRM stands disposed of.

CRWP-3736-2023

1. The present writ petition has been filed under Article 226 of the Constitution of India praying for issuance of writ in the nature of *Habeas Corpus* directing the official respondents to get detenues mentioned in paragraph No.5 of the petition, released from the illegal custody of respondent No.4.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner as well as the other detenues so mentioned in the petition, had been engaged by respondent No. 4 to do the work of moulding kacha bricks at their brick kiln. Initially, private respondent(s) provided essential amenities to the detenues, but later on, stopped making payment as agreed by them, and when they demanded for the same, private respondent with the help of some musclemen started giving beatings to them, and humiliating them as well.

3. Learned counsel appearing on behalf of the petitioner submits that he will be satisfied in case respondent No.2, who is the competent authority in terms of Section 16 and 23 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 & 23 of the Bounded 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 – District Magistrate, Hoshiarpur, to look into the grievance of the petitioner, as raised in the instant petition and in case any substance in the allegations is found true, then to take appropriate action under the Act of 1976, in accordance with law, within a period of one week

CRWP-3736-2023 (O&M)

- 4 -

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

April 20, 2023

J.Ram

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