

S. No.118

2023:PHHC:127247

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

CRWP No.9738 of 2023

Date of Decision:29.09.2023

Akal Singh

.....Petitioner

Vs.

The State of Punjab and others.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Aditya Partap Singh, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

The present petition has been filed 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.2 of the petition released from illegal custody of respondent Nos.4 and 5.

2. Learned counsel contends that the petitioner (subsequently escaped) along with other detenues mentioned in para No.2 of the petition were contracted by respondent Nos.4 and 5 for moulding kacha bricks for the brick kiln, who are allegedly detained by respondent Nos.4 and 5 against their wishes and consent as bonded labours and they are not being paid any wages.

3. Notice of motion.

4. At the asking of the Court, Mr. M.S. Nagra, AAG, Punjab accepts notice on behalf of respondent Nos. 1 to 3.

5. 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. 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.”

6. 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.

7. A copy of this order be sent to respondent No.2 for ensuring requisite compliance.
8. A copy of this order be given to counsel for the petitioner under Bench Secretary of this Court.

September 29, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No