

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

CRM-M No.24345 of 2015

Date of Decision: January 12, 2016

M/s. Krishna Real Estate Enterprises Private Limited .. Petitioner

vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajan Kohli, Advocate for
Mr. Gaurav Arora, Advocate for the petitioner.

Mr. Rita Kohli, Senior Advocate, Addl. A.G., Punjab with
Mr. Hanspal Virk, AAG, Punjab.

Mr. S.S. Narula, Advocate
for the applicant in CRM No.27780 of 2015.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

The petitioner has filed this petition under Section 482 Cr.P.C. for clarifications/modifications of the order dated 06.06.2015 (Annexure P-1) passed by learned Addl. Sessions Judge, Jalandhar, upholding the order dated 20.01.2015 (Annexure P-2) passed by learned Addl. Chief Judicial Magistrate, Jalandhar, in a complaint filed by the petitioner.

Briefly stated that the petitioner had filed a complaint titled as “M/s Krishna Real Estate Enterprises Private Limited vs Gurcharan Singh and another” before the learned Addl. Chief Judicial Magistrate, Jalandhar, under Section 156(3) Cr.P.C., requesting that

a direction be issued to the S.H.O., P.S. Navi Baradari, Jalandhar for registration of the FIR against the respondents. Learned Addl. Chief Judicial Magistrate, Jalandhar passed the following order:

“This Court has considered the arguments and perused the file. Given the nature of the dispute between the parties and having regard to the nature of the allegations, it is a matter which requires thorough investigation as record of more than one courts and establishments is required to be scrutinized and this would involve scrutiny of numerous documents. It is accordingly, appropriate that the specialize investigating agency should look into the matter. The application is disposed off, with the direction to the SHO PS Divn. No.3, Jalandhar to do the needful as per rules and conformity with the judgment of the Hon'ble Supreme Court. Application is ordered to be consigned to record room. Copy of application, the original complaint annexed with the application and the documents annexed with the complaint along with copy of the order is hereby ordered to be forwarded to the SHO PS Divn. No.3, Jalandhar.”

According to the petitioner, the said order is vague and no direction has been issued for registration of the FIR. The petitioner approached the Sessions Court by way of revision, which was disposed of vide order dated 06.06.2015 (Annexure P-1) and it was held that the order is not illegal and observed as under:

“--Otherwise also, the police officer concerned is duty bound to proceed with the matter in accordance with the statutory provisions as well as

the law laid down by the Hon'ble Supreme Court of India in various rulings, on this subject, including in the above landmark ruling case of Lalita Kumari (supra).---"

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the petitioner contends that he had produced the authority of Hon'ble the Supreme Court delivered in case of "***Lalita Kumari vs Govt. of U.P. and others***", 2014(1) SCC (Cri) 524 before the police, which took the stand that in the absence of specific direction, the police cannot register the FIR.

On behalf of the State, the stand has been taken that the clarifications/modifications, if any, is not be ordered by this Court.

Private respondent against whom the complaint was filed stated that in ***Lalita Kumari's case (supra)***, certain directions were issued by Hon'ble the Apex Court as enumerated in para No.111. Therefore, in case of commercial case, an appropriate inquiry was to be conducted.

After going through the impugned order passed by learned Addl. Chief Judicial Magistrate, Jalandhar, this Court is of the view that the impugned order is somewhat vague. It does not satisfy as to what course of action is to be taken by the police, in view of ***Lalita Kumari's case (supra)*** and other judgments of Hon'ble the Supreme Court.

This Court has been further informed that the police had conducted the inquiry and in the inquiry, it has been found that the

case is of civil nature. The police is not expert in law. Therefore, it should not be expected that the police will interpret any authority of Hon'ble the Supreme Court.

In these circumstances, the matter is remanded back. The learned Addl. Chief Judicial Magistrate, Jalandhar with a direction to clarify as to what course of action is to be taken by the police, in view of the various judgments of Hon'ble the Supreme Court. For this purpose, the Magistrate shall consider all the documents on the file including the reply filed by the State and private respondents in this case. A photocopy of this order be sent to the learned Addl. Chief Judicial Magistrate, Jalandhar.

The petitioners are directed to appear before the learned Addl. Chief Judicial Magistrate, Jalandhar, on 18.02.2016 at 10.00 a.m.

January 12, 2016
sarita

(KULDIP SINGH)
JUDGE