

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.21980 of 2016 (O&M)

Date of Decision: 22.10.2016.

Munish Chaudhary

....Petitioner.

Versus

Union of India and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE S.S. SARON  
HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Y.P. Singla, Advocate, for the petitioner.

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S.S. SARON, J.

The present petition has been filed under Articles 226 and 227 of the Constitution of India for directing respondents No. 1 to 6 to hold a fact finding enquiry through some high ranking responsible officer regarding mis-utilization and embezzlement of substantial part of MPLADS funds of Rs.55.00 lacs released during the year 2013-14.

It is submitted that the said funds were meant for installation of two lifts in the Lawyers' Chambers Complex of District Courts, Sector 43, Chandigarh. However, instead of two lifts only one lift has been installed and the work completion certificate has been submitted by the District Bar Association, Chandigarh (respondent No.7) on 23.07.2014 showing completion of the lifts work and utilization of the entire MPLADS funds amounting to Rs.55.00 lacs. Accountability, it is submitted, is liable to be fixed against the actual and the real culprits on the basis of the complaint dated 16.09.2016 (Annexure P17).

We have heard learned counsel for the petitioner and perused the petition that has been filed.

During the course of hearing, it is submitted that embezzlement of funds has been committed which amounts to a criminal cognizable offence. In the said circumstances, we are of the view that the proper remedy in such a case is to file a complaint before the concerned SHO of the Police Station in terms of Section 154 of the Code of Criminal Procedure ('Cr.P.C.' - for short).

It is to be noticed that the complaint (Annexure P17) is stated to have been made only on 16.09.2016 and it is not addressed to the SHO of the concerned police station although it is addressed to the Senior Superintendent of Police, Police Headquarters, Sector 9, Chandigarh (respondent No.9). Learned counsel submits that the case has since been marked to the SHO of the concerned police station.

We are of the view that the case at this stage is premature and it would be improper to interfere in the matter when the police is seized of the complaint (Annexure P17). Even otherwise, in Sakiri Vasu v. State of U.P. and others, 2008 (1) RCR (Criminal) 392 (S.C.), it has been held by the Hon'ble Supreme Court that the first remedy of the complainant in case a cognizable offence is made out and the police is not registering the First Information Report, is to approach the Superintendent of Police under Section 154 (3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 Cr.P.C., the grievance of the complainant still persists then he can

approach a Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. The complainant has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Therefore, it was observed that then why should writ petitions or petitions under Section 482 Cr.P.C. be entertained when there are so many alternative remedies that are available to the petitioner.

Learned counsel for the petitioner in the circumstances submits that for the present he may be allowed to withdraw the present petition and pursue his alternative remedies in the first instance and liberty be given to the petitioner to file a fresh petition if necessary.

Dismissed as withdrawn with liberty, as prayed for.

**[S.S. SARON]**  
**JUDGE**

October 22, 2016  
*rashmi*

**[SNEH PRASHAR]**  
**JUDGE**

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable?       | No  |