

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

**CRM-M-33851-2018 (O&M)
Date of Decision: 8.8.2018**

Ranbir Singh

.....PETITIONER(s).

VERSUS

Hawa Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Deepak Girotra, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J.(Oral)

This is a petition under Section 482 of Code of Criminal Procedure for quashing of order dated 5.7.2018 passed by learned Additional Chief Judicial Magistrate, Rohtak whereby the application submitted by the petitioner for issuance of direction under Section 156 (3) Cr.P.C. to register FIR has been declined.

A perusal of the material available on record transpires that civil litigation is pending between the parties with regard to Rohtak Khadi Ashram, Rohtak. However, in spite of that, an application (Annexure P-1) was filed under the provisions of Section 156 (3) Cr.P.C. praying for registration of FIR against the private respondents under Sections 379, 204, 406, 420, 477-A of Indian Penal Code.

A Judicial Magistrate before taking cognizance of an offence may either enquire into the case himself or direct an inquiry by any other person or direct an investigation under Section 156 (3) of Code. Thus, when the Magistrate receives a complaint regarding the commission of cognizable offence, power under Section 156 (3) Cr.P.C. may be invoked before taking cognizance of the offence under Section 190(1)(a) of the Code. It is his discretion. However, such a discretion be exercised judicially if he is of the view that by treating the case as private complaint, it is his subjective satisfaction and it should not be interefered with.

In the case in hand, vide impugned order dated 5.7.2018, learned trial Magistrate opted to treat it as a complaint.

In view of the above, the impugned order does not suffer from any illegality, irregularity or infirmity. No ground to interfere therewith.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

August 8, 2018
Paritosh Kumar

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>