

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

CRM-M-22870 of 2020

Date of Decision: 17.08.2020

Mandeep Singh

....Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Deepak Singh Saini, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is being taken up for hearing through video conferencing.

The present petition has been filed under Section 482 Cr.P.C. for issuance of a direction to the respondents to register FIR against Kausalya Khurana, Ex-President, Municipal Committee, Ladwa, K.L.Bathla, Ex-Secretary, Municipal Committee, Ladwa and Sandeep Sharma, Building Inspector and other employees of the Municipal Committee, Ladwa.

The facts leading to this case are that one Rajinder Kumar was lessee of Plot/Shop No. 65 situated in the revenue estate of Village Dera, which was later on included within the Municipal Limits of Ladwa. The said Rajinder Kumar paid the lease money to the then Gram Panchayat and receipt of the payment of lease money was also issued by the Gram Panchayat w.e.f. 1984 to 1991. Thereafter, a civil dispute arose between the private parties as well as the Gram Panchayat and Rajinder Kumar was directed to make payment of the lease money to Pritampal and Nirmal Kumar sons of Rulia Ram vide order dated 21.05.1999 passed by

Civil Judge (Junior Division), Kurukshetra. The lease money was paid upto July 2012 to the aforesaid Pritampal and Nirmal Kumar. However, in December 2012 Pritampal refused to take the lease money w.e.f. August 2012 to October 2012 on the ground that the shop has already been sold on 18.12.2012. Thereafter, Rajinder Kumar after taking details of the transfer of the said shop under RTI Act, submitted a complaint to the Deputy Commissioner, Kurukshetra that the then President Kausalya Khurana, Municipal Committee, Ladwa and the then Secretary, in connivance with the officials of the Municipal Committee, Ladwa have illegally transferred the shop in the name of the relatives of Kausalya Khurana, i.e. Rajesh Kumar son of Inderjit, Sahil son of Rajesh Kumar, Neeraj son of Inderjit and Inderjit son of Mehar Singh, all residents of 287-L, Model Town, Karnal. The Deputy Commissioner appointed the SDO (Civil), Thanesar to hold a preliminary enquiry. The enquiry was conducted and ultimately, it was found that the Building Inspector, the Secretary and the then President of Municipal Committee, Ladwa had committed a fraud while transferring the said shop in favour of Rajesh Kumar and her son-in-law Sahil son of Rajesh Kumar etc. Then on the basis of the preliminary enquiry made by the SDO (Civil), Thanesar, the Deputy Commissioner appointed Additional Deputy Commissioner, Kurukshetra to hold an enquiry. When no action was taken on the complaint submitted by Rajinder Kumar, the then Principal Secretary to Government of Haryana was approached to hold an enquiry with regard to the transfer of land of the Municipal Committee in favour of Rajesh Kumar and others. It was concluded by the Additional Deputy Commissioner, Kurukshetra in his

report Annexure P-1 that in this reference, lease transfer made by Tax Clerk of Municipal Council, Building Inspector, the then Secretary and President Kausalya Khurana, has not been made as per Rules and it appears that the above mentioned lease transfer has been made keeping in view the personal interest. The charges were proved. Thereafter, the Principal Secretary to the Government of Haryana, Urban Local Department, Chandigarh has also concluded vide his order dated 09.04.2015 that Kausalya Khurana, the then President of the Municipal Committee, Ladwa does not deserve to hold the said post and was accordingly removed.

Thereafter, one Vipin Chandpal son of Rajinder Kumar submitted another representation to the Hon'ble Chief Minister, Haryana on 05.07.2017.

Learned counsel for the petitioner states that vide e-mail dated 28.11.2018, the Office of Grievance Cell have communicated that the matter is sub-judiced and the stay has been granted. Therefore, the FIR can be lodged.

In case of ***“M. Subramaniam and another Versus S.Janaki and another”*** decided on 20th March, 2020, Supreme Court of India held that in such like cases, petitioner can approach the Magistrate concerned under Section 156(3) Cr.P.C. and if such application under Section 156(3) Cr.P.C. is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered.

Taking into consideration the above facts, this Court is not inclined to interfere in this petition and if so advised, the petitioner can approach the Magistrate for filing the complaint.

Disposed of.

(HARNARESH SINGH GILL)
JUDGE

17.08.2020
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No