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

CRWP-616-2021

Date of decision-22.01.2021

Swadesh Bala Malik and another

...Petitioners

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Suresh Kumar Sahni, Advocate for
Mr. Manu K.Bhandari, Advocate for the petitioners.

MANOJ BAJAJ, J.

Petitioners have filed this petition under Article 226 Constitution of India read with Section 482 Cr.P.C for issuance of writ or direction to the respondents for registration of FIR.

Learned counsel has argued that pursuant to the advertisement given by CHD Builders, the petitioners contacted the representatives of the builders for purchase of 2 BHK flat measuring 1257 square feet @ Rs.6192 per square feet. According to him, a sum of Rs.8,00,000/- was paid as down payment, followed by various other payments between 29.04.2014 to 26.02.2018 and in all a sum of Rs.75,69,746/- stood paid by the petitioners towards the sale consideration. Learned counsel has pointed out that though the flat No.CVN-T07-02-04 was allotted to the petitioners originally, but till

date no possession has been delivered. In response to the communication sent by the petitioner on 07.01.2019, the builder-company and its representative responded and conveyed through Annexure P-3 that due to some technical issue the construction of the flat allotted could not be completed in the stipulated time, therefore, alternatively offered a flat in Tower No.2. Learned counsel for the petitioners has further argued that the accused person intended to cheat the petitioners from the very beginning and despite a complaint given by them to the Police for alleged commission of offences punishable under Sections 420, 467, 468, 471 read with Section 120-B IPC, no cognizance has been taken so far by the Police. He submits that in terms of Section 154 Cr.P.C and the decision of Hon'ble Supreme Court in “*Lalita Kumari Vs. Government of U.P.*, (2014) 2 SCC 1, it is imperative for the Police to register the FIR against the accused and proceed with the investigation. He has invited the attention of the Court to the said complaints and reminders (Annexures P-4 to P-6) and prays that the necessary directions be issued.

After hearing learned counsel for the petitioners, this Court finds that the alleged allotment of flat took place in the year 2014 and payments were also made by the petitioners till the year 2018. As per the pleadings in the petition itself alternatively the builder has offered possession of another flat as due to some technical reasons, construction of original flat has not been completed. Prima facie, the dispute between the parties appears to be of civil nature, however, during the course of hearing, it is not disputed by the learned counsel that no other alternative remedy in law

has been adopted by the petitioners to seek redressal of their grievance.

Resultantly, considering the nature of the dispute and the averments in the petition, this Court finds that the ratio of Lalita Kumari's case (supra) may not be applicable in the facts of this case, therefore, no case is made out for exercising the extra ordinary jurisdiction or inherent powers, as the petitioners can avail alternative remedy in law.

Dismissed in limine.

(MANOJ BAJAJ)
JUDGE

22.01.2021
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No