

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

**CRM-M No.31528 of 2021
Date of Decision:-06.08.2021**

Zaber Singh Gehlawat

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

(Heard through Video-Conferencing)

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. S.K. Hooda, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

By way of the instant petition, the petitioner seeks the indulgence of this Court for the issuance of a direction to respondents No.1 to 4 for registration of the FIR against respondent No.5 on the basis of the complaints (Annexures P-1 and P-2) moved to respondent No.2, the application (Annexure P-3) as addressed to Director General, (Vigilance Bureau) as well as the application (Annexure P-4) as sent to the Chief Secretary, Haryana, by him and also to hand over the investigation of the said FIR to some independent agency or SIT headed by an officer of the rank of DIG, while averring that respondent No.5 has been indulging in various illegal activities and is misusing his position as a police official and though, he (petitioner) moved the above-said complaints/applications to the

afore-mentioned authorities in this regard but in vain.

I have heard learned counsel for the petitioner in this petition at the preliminary stage and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the allegations, levelled by the petitioner against respondent No.5 in the said complaints/applications, constitute the cognizable offences but the police authorities are not registering the FIR/criminal case in view thereof despite the fact that the Constitution Bench of the Apex Court has categorically observed in **Lalita Kumari Versus Government of U.P. and others, {Writ Petition (Criminal) No.68 of 2008, decided on 12.11.2013}** that “*the registration of the FIR is mandatory under Section 154 Cr.P.C, if the information discloses commission of a cognizable offence*” and the similar observations have also been made by Hon’ble Supreme Court in **Ramesh Kumari Versus State of Delhi and others, 2006(2) SCC 677** and it being so, the official respondents be directed to register the criminal case/FIR against respondent No.5.

However, I do not find this contention to be tenable because in **Lalita Kumari's case (supra)**, the issue that had arisen for the consideration was “*whether a police officer is bound to register a First Information Report (FIR) upon receiving any information relating to the commission of a cognizable offence, under Section 154 of the Code of Criminal Procedure, 1973 or the police officer has the power to conduct a preliminary inquiry in order to test the veracity of such information before registering the same?*”.

Whereas, in the case in hand, the question that has arisen for adjudication is as to whether this Court is required to issue any direction for the registration of the criminal case/FIR in case the police authorities do not register the same.

This question stands answered in the judgment handed down by the three Judges' Bench of Hon'ble the Supreme Court in **M. Subramaniam and another Versus S. Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020)**, wherein the direction given by the High Court for the registration of the FIR had been set-aside while relying upon an earlier judgment of the Apex Court rendered in **Sakiri Vasu Versus State of U.P., (2008)2 SCC 409**, to the effect that *“if a person has a grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court but to approach the Magistrate concerned under Section 156(3) Cr.P.C.”*

Moreover, in **Aleque Padamsee and others Versus Union of India and others (Criminal Writ Petition Nos.11-15 of 2003, decided on 18.07.2007)**, the Apex Court has also observed that *“in case of non-registration of the FIR by the police, the aggrieved party can lay a complaint before the Magistrate under Sections 190 and 200 Cr.P.C. and the writ petition seeking direction to the police to register the case is not to be entertained.”* In view of these observations, it is explicit that the instant petition seeking the issuance of the direction for registration of criminal case/FIR is not maintainable before this Court.

As regards the observations as made by their Lordships in **Ramesh Kumari's case (supra)**, the same are also of no help to the petitioner in view of the observations made by the three Judges' Benches of Hon'ble the Supreme Court later-on in **Aleque Padamsee and others' case (supra)** and in **M. Subramaniam and another's case (supra)**.

As a sequel to the foregoing discussion, it follows that the petition in hand deserves dismissal on the ground of its not being maintainable before this Court.

Resultantly, the same stands dismissed accordingly.

August 06, 2021
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *Yes*