

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

**CRM-M No.43361 of 2020 (O&M)
Date of Decision: 06th September, 2022**

Vaheed

..Petitioner

Versus

State of Haryana & Others

..Respondents

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

Present:- Mr. Mohd. Shamim, Advocate,
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana,
for respondents No.1 to 3.

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MEENAKSHI I. MEHTA, J.(ORAL)

By way of the instant petition, the petitioner herein prays for issuing the directions to respondents No.1 to 3 to register the FIR against respondents No.4 to 11 on the basis of his complaint Annexure P-1 and thereafter, to hand over the investigation of the case to some senior officer or any independent agency and also for directing respondent No.2 to decide his above-said complaint as well as representation Annexure P-2, while averring that the allegations, as levelled by him in the afore-said complaint, disclose the commission of the cognizable offences by the said private respondents but the police has not taken any action against them.

2. Reply submitted on behalf of respondents No.2 and 3, along-with Annexures R-1 and R-2 and the vernacular versions thereof, is already

available on the file and these documents are taken on the record.

3. Mr. Talim Hussain, Advocate, has also appeared on behalf of respondent No.5 in the present petition and has submitted his Power of Attorney in the Court today and the same has been placed on the file.

4. I have heard learned counsel for the petitioner as well as learned State counsel and learned counsel for respondent No.5 in this petition and have also perused the file carefully.

5. Learned counsel for the petitioner contends that respondents No.4 to 11 have misappropriated/embezzled the funds worth crores of rupees, as received by the Gram Panchayat, Pachanka under various heads, for the development work in the village and have, thereby, committed the cognizable offences and though, the petitioner moved complaint Annexure P-1 and representation Annexure P-2 to the official respondents with the prayer to register the criminal case/FIR against these private respondents but no action has been taken against them and therefore, the petitioner deserves the relief as sought by him in the instant petition.

6. Per-contra, learned State counsel refers to Annexure R-1, the copy of the statement, as made by the petitioner to the police, to the effect that he (petitioner) had already preferred a complaint before the Director Panchayat, Chandigarh and the enquiry was being conducted by the above-said authority and hence, the complaint moved by him to the police, may be filed and he argues that in view of the afore-discussed statement, it becomes explicit that the petitioner has no cause of action to file the present petition and it being so, the same be dismissed.

7. A bare perusal of Annexure R-1 reveals that the petitioner has categorically stated therein that the complaint moved by him to the police authorities may be filed as the enquiry in the matter was already being conducted by the Director, Panchayat and he wanted to get the same conducted by the said authority. From the above-discussed statement, it becomes quite clear that the cause of action does not survive in favour of the petitioner to file/pursue the present petition.

8. Seen from yet another angle, the petitioner seeks the issuance of the direction to the official respondents to register the FIR against the private respondents but in **M. Subramaniam and another Versus S. Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020)**, the three Judges' Bench of Hon'ble Supreme Court has set aside the direction given by the High Court for the registration of the FIR 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.*”

9. 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 Hon'ble Supreme 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 present petition is not maintainable before this Court.

10. 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.

06.09.2022

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes