

2024:PHHC:030149

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-11360-2024

Date of Decision : March 04, 2024

KOTAK MAHINDRA BANK LTD

-PETITIONER

V/S

STATE OF HARYANA AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aman Vasisth, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner assails the order dated 20.10.2023 (Annexure P-1), whereby, the learned Magistrate concerned has, in case bearing No. COMI/431/2023, declined to send the application, as preferred by the present petitioner under Section 156(3) of the Cr.P.C., for registration of FIR, rather ordered to register the said complaint under Section 200 of the Cr.P.C.

2. The sole and the principal argument, as advanced by the learned counsel for the petitioner, is that, since commission of a cognizable offence has been disclosed in the complaint (supra), therefore, it was the bounden duty of the learned Magistrate concerned to, in terms of the law laid down by the Hon'ble Supreme Court in its judgment rendered in "*Lalita Kumari v. Government of Uttar Pradesh and others*", reported in (2014) 2 SCC 1, order registration of FIR.

3. This Court has made a meticulous survey of the entire available available before it, however, does not find any illegality or perversity in the order dated 20.10.2023 (Annexure P-1).

4. The allegations, which led to filing of the complaint (supra), are that, owing to defaults being committed by the private respondents concerned, the petitioner/complainant, which is a Bank, initiated proceedings under the SARFAESI Act and assumed physical possession of their mortgaged property(ies). However, the private respondents concerned trespassed into the property(ies) (supra) by breaking open the locks and seal, as affixed by the petitioner/complainant.

5. What emanates from the record, is that, the order, whereby, the account of the private respondents concerned was declared as N.P.A. and which led to assumption of possession of their mortgaged property(ies) has been set aside by the learned Debts Recovery Tribunal concerned, vide order dated 18.07.2023. Aggrieved by this order, the petitioner/complainant has filed an appeal thereagainst before the learned Debts Recovery Appellate Tribunal concerned, which is yet pending consideration.

6. Therefore, considering the fact that the evidence, which is required to prove the allegations, is very much within the domain of the petitioner/complainant, there is no requirement of any police investigation and as such, the learned Magistrate concerned has rightly chosen not to act as a Post-Office by sending the complaint (supra) for registration of FIR, and, to order for registration of said complaint under Section 200 of the Cr.P.C.

7. In view of what has been discussed above, this Court does not find any merit in the instant petition and is constrained to dismiss it. Consequently, the instant petition is **dismissed**.

March 04, 2024

devinder

(KULDEEP TIWARI)
JUDGE

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