

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

**Reserved on: April 08, 2024
Date of Decision: April 09, 2024**

CRM-M-10606-2024

Sarbjot Singh

...Petitioner

Versus

State of U.T. Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: - Mr. Ravi Gakhar, Advocate for the petitioner.

Ms. Aditi Sharma, Advocate for
Mr. C.S. Bakshi, APP for U.T., Chandigarh.

DEEPAK GUPTA, J.

By way of present petition filed under Section 482 Cr.P.C., petitioner prays for issuing direction to State of U.T., Chandigarh to initiate action against respondent No.2 – Senior Superintendent of Police, U.T., Chandigarh, for committing gross violation of law laid down by Hon'ble Supreme Court in ***“Lalita Kumari v. Govt. of Uttar Pradesh and others”***(2013) 14 SCR 713.

2. It is contended that petitioner was owner of House No.2416, Sector 35-C, Chandigarh, to the extent of 20%. Remaining 80% share was owned by his father (respondent No.5), brother (respondent No.4), and his mother. Petitioner is a resident of Dubai. The property was sold for ₹2.21 crores in November, 2013 and petitioner was told that amount of ₹43,75,800/- of his share had been credited in his account in Central

Bank of India, Sector 35-C, Chandigarh. Learned counsel contends that respondent Nos.4 and 5 have embezzled the amount of the petitioner from his account in Central Bank of India, Sector 35-C, Chandigarh, in connivance with the bank officials, by forging his signatures. Petitioner made repeated complaints dated 13.10.2021 (Annexure P-3), 27.01.2022 (Annexure P-4) and 28.02.2022 (Annexure P-5) supported by documents to the Chandigarh Police, but no action has been taken yet.

3. On 29.02.2024, this Court passed the following order:-

*“Learned counsel for the petitioner is required to assist this Court as to how this petition is maintainable in the light of the legal position as explained by Hon’ble Supreme Court in **Sakiri Vasu Vs. State of U.P. and others, reported as 2008(2) SCC 409**, which has been reiterated by three Judges Bench in **M. Subramaniam and another Vs. S. Janaki and another, Criminal Appeal No.102 of 2011, decided on 20.03.2020**. Both these judgments have also been referred by co-ordinate Bench of this Court in **Navdeep Sharma Vs. State of Punjab and others, CRM-M-24355 of 2022 decided on 12.07.2022**.*

Adjourned to 08.04.2024.”

4. In compliance of the aforesaid order, learned counsel contends that he seeks direction in the light of guidelines issued by Hon’ble Supreme Court in ***Lalita Kumari’s*** case (*supra*).

5. The issue as involved in the present petition has been dealt with at length by this Court in CRM-M-61352-2023 titled as ***“Daljit Singh and another v. State of Punjab and others”***, decided on 08.02.2024. After referring to ***Sakiri Vasu’s*** case (*supra*); ***“M. Subramaniam’s*** case (*supra*); ***Lalita Kumari’s*** case (*supra*); ***“Sidhu***

Janak Nagargoje v. The State of Maharashtra and others”, [SLP (Crl.) No.5883 of 2020, decided on 08.08.2023]; “*Mohd. Yousuf v. Smt. Afaq Jahan & Anr.*”, JT 2006(1) SC 10; “*Dilawar Singh v. State of Delhi*”, JT 2007(10) SC 585; “*State of Bihar v. A.C. Saldanna*”, AIR 1980 SC 326; “*Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others*”, (2016) 6 SCC 277; and “*M/s Radha Krishan Industries v. State of Himachal Pradesh & Ors.*”[Civil Appeal No.1155 of 2021 (arising out of SLP © No.1688 of 2021), decided on 20.04.2021], it has been concluded by this court as under:-

“14. Thus, legal position, which emerges is that though the existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution, but a writ petition can be entertained only in exceptional circumstances where there is:

- (i) a breach of fundamental rights;*
- (ii) a violation of the principles of natural justice;*
- (iii) an excess of jurisdiction; or*
- (iv) a challenge to the vires of the statute or delegated legislation.*

It further emerges that if a person has a grievance that despite commission of a cognizable offence, his FIR has not been registered at the Police Station, or that a proper investigation has not been done by the police, he cannot be allowed to rush to the High Court by filing a Writ Petition or a petition under Section 482 CrPC. The High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternate remedy, firstly, under Section 154(3) and Section 36 CrPC before the concerned police officer and if that is of no avail, then to approach the concerned Judicial Magistrate under Section 156(3) CrPC. Moreover, any

such aggrieved person has a further remedy of filing criminal complaint under Section 200 CrPC.

15. In view of the consistent legal position as repeatedly explained by Hon’ble Supreme Court, no advantage can be given to the petitioner of Sindhu Janak Nagargoje’s case (supra).”

6. After drawing the aforesaid conclusion, this Court had disposed of the petition by relegating the petitioners to approach the Jurisdictional Magistrate or to avail other remedy available to them as per law.

7. The legal position as above, is fully applicable to the facts of the present case. As such, no direction is required. This petition is hereby disposed of by holding that if the petitioner is aggrieved by the fact that respondent No.2 has not considered his representations Annexures P-4 to P-6, he has the remedy to approach the Jurisdictional Magistrate or to avail alternative remedy as available to him under the law.

Disposed of accordingly.

April 09, 2024

Sarita

(DEEPAK GUPTA)
JUDGE

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