



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. RA-LP-9-2019 in/and
LPA-2032-2014 (O&M)
Reserved on:- 09.07.2024
Pronounced on:- 26.07.2024.

Jasbir Kaur

...Appellant

Versus

Chandigarh Administration and others

...Respondents

2. RA-LP-7-2019 in/and
LPA-2016-2014 (O&M)
Reserved on:- 09.07.2024
Pronounced on:- 26.07.2024.

LIC Housing Finance Limited

...Appellant

Versus

Chandigarh Administration and others

...Respondents

3. RA-LP-8-2019 in/and
LPA-3-2015 (O&M)
Reserved on:- 09.07.2024
Pronounced on:- 26.07.2024.

Charanjit Singh

...Appellant

Versus

Chandigarh Administration and others

...Respondents



CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sunil Chadha, Senior Advocate with
Ms. Kashish Aggarwal, Advocate
for the appellant in LPA-2032-2014.

Mr. Paramjit Batta, Advocate
for the appellant in LPA-2016-2014.

Mr. Abhinav Kalia, Advocate
for the appellant in LPA-3-2015.

Mr. Satish Kumar Saini, review-applicant/respondent no.4
in person in RA-LP-7-2019, RA-LP-8-2019 and
RA-LP-9-2019.

Ms.Aakanksha Sawhney, Addl.Standing Counsel, U.T.
Chandigarh in LPA-2016-2014, LPA-2032-2014, LPA-3-2015.

Mr.Maheshinder Sidhu, Advocate and
Mr.Rohit Kaushik, Advocate
for U.T. Chandigarh in RA-LP-7-2019 and RA-LP-8-2019.

Mr.Sumit Jain, Addl.PP and
Mr.Dushyant Rana, Advocate
for U.T. Chandigarh in all three appeals.

VIKAS BAHL, J.

1. The present order will dispose of three LPAs i.e. LPA No.2032 of 2014 filed by Jasbir Kaur, LPA No.2016 of 2014 filed by LIC Housing Finance Limited through Vinay Thapa and LPA No.3 of 2015 filed by Charanjit Singh, against the common judgment dated 27.11.2014 passed in CWP No.20425 of 2012, vide which, learned Single Judge while disposing of the writ petition filed by the private respondent-Satish Kumar Saini had quashed the order dated 19.09.2012 (Annexure P-10) and had upheld the order dated 25.05.2012 (Annexure P-6) passed by the Police Complaint Authority, Union Territory, Chandigarh (hereinafter to be referred as



“PCA”), directing the registration of the FIR against the present appellants on the complaint given by the private respondent-Satish Kumar Saini. Since common questions of law and facts arise in the present LPA’s and also since, common judgment of the learned Single Judge has been impugned in each of the three cases, LPA No.2032 of 2014 has been taken as the lead case and reference to the documents has been made from the same except where otherwise specifically mentioned.

2. Brief facts of the present case are that the private respondent-Satish Kumar Saini had filed a complaint dated 23.03.2012 (Annexure P-5) before the PCA bearing complaint No.31 of 2012, in which, the primary prayer made was for registration of the FIR against the present appellants with a further prayer to transfer the investigation after registration of FIR to the CBI, Chandigarh. A perusal of the said complaint would show that neither the present appellants were made party to the same nor any specific police officer was made a party thereto. A perusal of paragraph 16 of the said complaint would show that it was averred by the private respondent-Satish Kumar Saini that he had also filed a petition under Section 482 Cr.P.C. wherein he had made a prayer for transfer of investigation to CBI, Chandigarh after registration of the FIR. The PCA, vide order dated 25.05.2012 (Annexure P-6), directed that an FIR be registered against the persons mentioned by Satish Kumar Saini in his complaint (i.e. the present appellants) and the Deputy Inspector General was requested to order a fair and unbiased investigation in the matter. It would be relevant to note that none of the present appellants were heard before passing of the said order and no direction/order was passed against any of the police officials and the



order was only against the present appellants, who are private persons. A perusal of Annexure P-6 would further show that reference was made to the fact that the private respondent-Satish Kumar Saini had filed a consumer complaint before the District Consumer Disputes Redressal Forum-I, Chandigarh and the District Forum, vide order dated 02.02.2012 had directed that the sale certificates be executed and registered in favour of Satish Kumar Saini. Two review applications dated 29.05.2012 and 01.06.2012 (Annexures P-7 and P-8 respectively) were filed by Jasbir Kaur and the Area Manager of LIC Housing Finance Limited (hereinafter to be referred as "LIC"). In the same, it was specifically mentioned that the appellants had not been heard and that the private respondent-Satish Kumar Saini had misguided the police authority and that the complaint filed by the private respondent was false and frivolous and that the present appellant-Jasbir Kaur was a co-sharer of the property in question.

3. The PCA, after hearing the review applicants/present appellants reviewed the earlier order dated 25.05.2012 and withdrew the same. While passing the said order dated 19.09.2012, it was observed that the State Consumer Disputes Redressal Commission had allowed the appeal filed by the present appellants vide order dated 11.09.2012 and had set aside the order dated 02.02.2012, of which note had been taken in the earlier order dated 25.05.2012. It was further observed that the Consumer Forum had granted the private respondent-Satish Kumar Saini liberty to resort to alternative proceedings. Aggrieved against the same, the private respondent-Satish Kumar Saini had filed civil writ petition No.20425/2012 under Article 226 of the Constitution of India praying for setting aside of the order dated



19.09.2012 passed by the PCA. In the said writ petition, no police official by name was made a party. In the written statement filed by respondent No.5, apart from other issues, a specific objection was raised that the order dated 25.05.2012 passed by the PCA directing registration of FIR against the private persons was void ab-initio as the said authority could entertain the complaint only with respect to the serious misconduct of police officials in exercise of their functions as such police officers and could take action against them alone and not against private persons. A further objection was raised that the dispute was primarily a civil dispute and no police official/authority could decide or adjudicate the same.

4. Learned Single Judge vide order dated 27.11.2014 was pleased to dispose of the said writ petition in the terms as noticed in para 1 of the present order. A perusal of the order of the learned Single Judge would show that the said objection with respect to jurisdiction of the authority, which has been agitated as a moot issue in the present LPAs and was specifically raised in the written statement, was not considered by the learned Single Judge. Aggrieved against the said judgment, the present three LPAs have been filed.

5. LPA No.2016 of 2014 filed by the "LIC" came up for hearing before the Co-ordinate Bench of this Court on 08.12.2014, on which date the Co-ordinate Bench was pleased to pass the following order:-

"Present : Mr.Paramjit Batta, Advocate, for the appellant.

Mr.Satish Kumar Saini-Caveator-respondent No.4- in person.

* * *

We have gone through the observations made by the State



Consumer Disputes Redressal Commission, UT, Chandigarh in para No.25 of its order, as reproduced by the National Commission in its order dated 25.09.2014. We are further informed that respondent No.4-caveator has filed a criminal complaint also. Similarly, respondent No.5 is said to have filed a civil suit pertaining to the same issue.

Notice of motion for 21.04.2015.

Meanwhile, operation of the order passed by learned Single Judge and the consequential proceedings, if any, initiated by the police authorities, shall remain stayed.”

6. LPA No.2032 of 2014 filed by Jasbir Kaur came up for hearing before the Co-ordinate Bench of this Court on 10.12.2014 on which date notice of motion was issued and the said LPA was ordered to be listed with LPA No.2016 of 2014 and it was observed that there would be interim order in the same terms as in LPA No.2016 of 2014. Thereafter, vide order dated 07.01.2016, the matter was heard and was admitted and it was ordered that the interim order would continue. The private respondent-Satish Kumar Saini filed Special Leave to Appeal (Criminal) No.3969 of 2016 against the said order dated 07.01.2016 and the said Special Leave to Appeal (Criminal) was disposed of by the Hon’ble Supreme Court vide order dated 12.08.2016 with the direction to decide the maintainability of the LPAs.

7. In pursuance of the said order, the Co-ordinate Bench of this Court vide detailed order dated 06.07.2018 observed that the Letters Patent Appeals were maintainable and listed the appeals for arguments on merits for 24.07.2018. A perusal of the above order of the Co-ordinate Bench of this Court would show that it had been observed that the learned Single Judge had not dealt with the objection with respect to jurisdiction of the



authority in dealing with the complaint against the private persons, which was raised by the private respondent in his written statement. On the said aspect, reliance was placed on an earlier judgment of the Division Bench of this Court wherein it was observed that PCA had not been given any power to go into the merits of the complaint filed by private persons against other private persons and could only inquire into the allegations of serious misconduct against police personnels and on the basis of the same, it was observed that the order dated 25.05.2012 passed by PCA was without jurisdiction. It was further observed that once the issue regarding jurisdiction of the authority regarding direction for registration of the FIR went to the root of the case and which issue had not been examined by the learned Single Judge while upholding the order dated 25.05.2012 of the authority, then on the said aspect, LPA against the same was maintainable as jurisdiction of the authority to pass the order was in issue. It was further observed that the authority had vide order dated 19.09.2012 (Annexure P-10) rightly reviewed the earlier order, which was without jurisdiction and reference in this regard was made to Clause 3(b)(ii) of the Notification dated 23.06.2010 (Annexure P-13), vide which the Administrator, Union Territory, Chandigarh in exercise of his powers was pleased to constitute the PCA and the said clause provided for powers of the PCA.

8. The private respondent-Satish Kumar Saini filed a petition for Special Leave to Appeal (Criminal) No.6466 of 2018 against the said order dated 06.07.2018 and the said matter came up for hearing before the Hon'ble Supreme Court on 07.09.2018. The said private respondent who appeared in person, after arguing for sometime, withdrew the Special Leave Petition,



without seeking any liberty to pursue any alternative remedy. However, subsequently, three separate review applications have been filed by the private respondent-Satish Kumar Saini for reviewing the order of the Division Bench of this Court dated 06.07.2018.

9. During the course of hearing, it was submitted before us that the main appeal itself be decided on merits in view of the fact that the issue with respect to maintainability of the LPA's had already been decided by the Division Bench vide order dated 06.07.2018 and the SLP against the same had been withdrawn. Accordingly, arguments on merits of the LPA's have been addressed by all the counsels/parties. It would be relevant to note that the initial order of granting stay operation of the judgment of the learned Single Judge was modified vide order dated 23.08.2017 to the effect that the investigation may go on as FIR had already been registered on 05.12.2014 prior to the passing of the stay order dated 08.12.2014, in pursuance of the judgment passed by the learned Single Judge, but it was stated that the final report be not submitted without prior permission of the Court. Vide order dated 12.03.2019, the Division Bench had further clarified that no coercive steps would be taken against the appellants.

10. We have heard learned counsel for the parties on merits of the LPAs, as has been agreed between the counsels/respondent-Satish Kumar Saini appearing in person.

11. Learned Senior Counsel appearing on behalf of appellant-Jashbir Kaur along with counsel for the appellants in LPA No.2016 of 2014 and LPA No.3 of 2015 have primarily raised three arguments to challenge the judgment of the learned Single Judge.



12. First argument raised is to the effect that the order passed by the PCA dated 25.05.2012 directing registration of the FIR against the private persons is without jurisdiction inasmuch as the only jurisdiction conferred upon PCA is to take action against police officials. Reference has been made to the letter dated 23.03.2010 (Annexure P-11) as well as Gazette Notifications dated 29.03.2010 (Annexure P-12) and 23.06.2010 (Annexure P-13) which have been relied upon by the private respondent himself in his writ petition to highlight the fact that the perusal of the powers and functions of PCA would show that the same has been constituted to inquire into allegations of serious misconduct against police personnels and a reading of the same would clearly show that no jurisdiction has been vested in PCA to pass any order against private persons. It is further submitted that in the order dated 25.05.2012, no directions have been issued against any police official nor any police official has been made party by name either before the PCA or even in the writ petition. It is submitted that since the first order passed by the PCA was without jurisdiction, the same has been rightly reviewed by the police authority vide order dated 19.09.2012. In support of the said arguments, reliance has been placed upon the **judgment dated 20.09.2016** passed by the Division Bench of this Court in **CWP No.12601 of 2015 titled as Ranjit Singh Baath and others Vs. Union of India and others** reported as **2016(4) RCR (Criminal) 540** as also upon the judgment passed by the Hon'ble Supreme Court in **Parkash Singh and another Vs. Union of India and others** reported as **(2006) 8 SCC 1**. It is submitted that a specific objection regarding the same was raised in the written statement but the same has not been considered by the learned Single Judge while passing



the impugned judgment. While relying upon the Gazette Notification dated 23.06.2010 (Annexure P-13) more so Clause 3(b)(ii) thereof, it is argued that PCA has the power to review its finding upon receipt of additional information and thus, the order dated 19.09.2012 (Annexure P-10) has been rightly passed.

13. Second argument raised on behalf of the appellants is that in the present case, the private respondent-Satish Kumar is purposely giving a criminal colour to the dispute between the parties which is primarily civil in nature in order to gain undue advantage in the pending civil proceedings. In this regard, reference has first been made to the proceedings initiated by the private respondent before the District Consumer Disputes Redressal Forum-I, Chandigarh. It is submitted that although, District Consumer Disputes Redressal Forum-I, Chandigarh vide order dated 02.02.2012 had allowed the complaint of the private respondent but on appeal filed by the present appellants, the said order had been set aside by the State Consumer Disputes Redressal Commission vide order dated 11.09.2012. In the said order, it had been specifically observed that there were allegations against the private respondent, which had been made by the present appellants and that the entire issue required production of voluminous evidence and complicated questions were involved in the present matter which could only be decided by the Civil Court of competent jurisdiction and that the private respondent at best was relying upon an agreement in his favour and for the same also, the only remedy for the private respondent was for filing a suit for specific performance. It is submitted that the said order of the State Commission was upheld by the National Commission as well as by the Hon'ble Supreme



Court. In addition to the same, it has been submitted that civil suits have been filed by Jasbir Kaur-appellant as well as by the private respondent with respect to the property in question. It is submitted that the present appellants are sanguine that since the pleas which they have raised are genuine and bona fide, thus, in the said civil proceedings, they will be able to show that it is the private respondent who has acted illegally and the case of the present appellants is genuine and bona fide.

14. While briefly referring to the said dispute between the parties, it has been argued on behalf of the appellants that in the present case, LIC had issued Sale Notice dated 19.06.2007 under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter to be referred as “the SARFAESI Act”) regarding the sale of six properties situated at Derabassi on “as is where is basis” and “as is what is basis”. It is submitted that in response to the same, the appellant-Jasbir Kaur and private respondent jointly gave a letter of intent dated 15.03.2008 to LIC showing interest for the purchase of six properties and further the said authority wrote a letter dated 18.03.2008 to the said Jasbir Kaur and the private respondent asking them for further requirements to be fulfilled in response to the purchase of the properties mentioned in the aforesaid sale notice. Thereafter, Jasbir Kaur and private respondent filed a joint affidavit dated 31.03.2008 reiterating their interest in purchase of six different properties and thereafter, an amount of Rs.8 lac on account of part-sale consideration was paid by the appellant-Jasbir Kaur from her account vide draft No.708406 dated 29.04.2008 drawn on Punjab National Bank. After payment of the sale consideration, six sale certificates were issued in



the joint name of the appellant-Jasbir Kaur and private respondent on 17.04.2008, 30.04.2008, 12.05.2008, 15.07.2008 and 18.04.2009 and the copies of the said sale certificates have been annexed along with other documents as Annexures R-5/1 to R-5/9. It is submitted that thereafter, correspondence was made for fixing the date for registration of the sale certificates in the Tehsil office but however the private respondent-Satish Kumar illegally entered into an agreement to sell the said six properties with one Ram Piari of Derabassi and even took an amount of Rs.16,70,000/- on account of earnest money by falsely showing that he was the sole owner of the six properties although he was joint owner to the extent of 36.30 % share only and it was the present appellant-Jasbir Kaur who was owner of the property to the extent of 63.70% share. It is submitted that when Jasbir Kaur came to know about the same, she made a complaint to the authority with respect to the said fraud and that to wriggle out of the said fraud, the said private respondent forged and fabricated the agreement dated 15.04.2008 and also no due certificate dated 31.03.2009, claiming himself to be sole owner of the property. It is submitted that the said agreement to sell is apparently a forged and fabricated document as first page of the agreement does not bear the signatures of authorized officer of LIC and the same was on a simple piece of paper instead of non-judicial stamp paper and there was no signature of any witness at page 2 of the said agreement. It was further submitted that the original of the said agreement has not been shown to the Court till date and that the said issue has already been considered in the consumer complaint filed by the complainant and the said issue has been finally decided in favour of the present appellants upto the Hon'ble Supreme



Court. It is, thus, submitted that in fact, it is the present appellants who had suffered losses on account of the acts illegal and conduct of the private respondent.

15. Third argument raised on behalf of the appellants is that as per the law laid down by the Hon'ble the Supreme Court of India in case titled as *Sakiri Vasu Vs. State of U.P. and others, reported as 2008(2) SCC 409* and in *M. Subramaniam and another Vs. S. Janaki and another, Criminal Appeal No.102 of 2011, decided on 20.03.2020*, the proper remedy for a person, to get an FIR registered is for first filing a complaint before the concerned police officials and after having exhausted his remedy before the police officials then to institute proceedings before the Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by filing a writ petition or petition under Section 482 Cr.P.C. It is submitted that it was further observed by the Hon'ble Supreme Court that thereafter in case any grievance still subsists then complaint under Section 200 of Cr.P.C. could also be filed and that the High Courts should discourage the practice of filing writ petitions or petitions for direction to register FIRs. It is submitted that on the said principle also, direction for registration of FIR is illegal and deserves to be set aside.

16. Respondent no.4-Satish Kumar Saini has appeared in person and has prayed for dismissal of the Letters Patent Appeals. It is submitted by respondent no.4 that the present appellants in collusion with each other had caused wrongful loss to him and thus, he had filed the complaint dated 24.03.2011 to the DIG (H.Q.) Chandigarh Police, Sector 9, Chandigarh with the request for registration of an FIR against the present appellants on the



allegations that on 19.06.2007, 'LIC' through their authorised officer published a possession-cum-sale notice for inviting general public for purchase of immovable properties at certain reserve prices. No one had shown interest in the same and that on 15.03.2008, the private respondent along with Jasbir Kaur had expressed their interest in purchasing the six properties in question and that thereafter Vinay Thapa, who was the Branch Manager, had issued letter dated 18.03.2008 to the private respondent and to the said Jasbir Kaur and asked them to arrange some documents so that deal could be finalised. It is highlighted by respondent no.4 that he had further averred in the said complaint that after making proposal dated 15.03.2008 the appellant Jasbir Kaur had changed her mind and had lost interest in purchasing the said properties. Thereafter, respondent no.4 alone was ready to purchase the said property from 'LIC' at agreed rates and terms and that the said Vinay Thapa, who was the authorised officer, had entered into an agreement to sell on 15.04.2008 with him and that it is the respondent no.4, who had paid the balance consideration and that no due certificate dated 31.03.2009 was issued in his favour. It was further alleged in the said complaint that despite the above 'LIC' failed to comply with the provisions of the agreement and did not issue the sale certificates in his favour and that the said act was done in collusion with the appellant Jasbir Kaur, who had jointly conspired to cause loss to the respondent no.4. It is submitted that when no FIR was registered on the said complaint, the private respondent filed a complaint before the police authority, U.T. Chandigarh in which the details with respect to the enquiries carried out in the earlier complaint was also mentioned and prayer was made for registration of the FIR against the



present appellants. It is submitted that the Police Complaint Authority vide order dated 25.05.2012, after examining the facts of the case had correctly found that a case of cheating, fraud and forgery had been made out against the present appellants and had thus, ordered registration of the FIR against them and further directed the DIG to fairly and properly investigate the matter. It is argued that the said order was in accordance with law and thus, the review applications filed by Jasbir Kaur and 'LIC' were completely misconceived and that the Police Complaint Authority vide order dated 19.09.2012 illegally allowed the said applications and withdrew the order dated 25.05.2012. It is argued that in pursuance of the order dated 25.05.2012, the FIR was registered, which proceedings should be permitted to continue, so that appropriate punishment can be awarded to the present appellants for causing loss to respondent no.4.

17. With respect to the power of the authority to pass order dated 25.05.2012 as well as order dated 19.09.2012, reliance has been placed by respondent no.4 on the letter dated 23.03.2010 (Annexure P-11), notification dated 29.03.2010 (Annexure P-12) and notification dated 23.06.2010 (Annexure P-13) in support of his arguments to the effect that the order dated 25.05.2012 is legal, whereas the order dated 19.09.2012 is illegal and that the same has been rightly set aside by the learned Single Judge. It is submitted that the orders passed by the State Commission which had been relied upon by the appellants do not in any way call for setting aside the order of the Single Judge and do not also show that the version of respondent no.4 has not been believed and rather the said orders have been passed by primarily holding that respondent no.4 is not a consumer and thus,



his complaint could not have been entertained and that even in the said orders of the Consumer Forum, respondent no.4 was granted liberty to pursue his alternate remedy. It is submitted that even filing of the civil suit by respondent no.4 i.e., Civil Suit no.625/2018 would not come in the way of respondent no.4 in pursuing the proceedings for registration of FIR against the present appellants. It is further submitted that interim orders passed by the Division Bench of this Court in favour of the present appellants are in violation of the law laid down by the Hon'ble Supreme Court in **M/s Neeharika Infrastructure Pvt.Ltd. vs. State of Maharashtra** reported as **2021 AIR Supreme Court 1918** and that the LPAs are meritless and it is prayed that the same be dismissed.

18. We have heard learned counsel for the parties/respondent No.4 in person and have perused the paper book and are of the opinion that all the three LPAs deserve to be allowed and the order of the Single Judge dated 27.11.2014 vide which the order dated 25.05.2012 (Annexure P-6) has been restored, deserves to be set aside for the reasons which have been detailed hereinafter.

19. The first issue that arises for consideration in the present set of cases is “as to whether the PCA had the jurisdiction to order/direct registration of FIR against present appellants, who are not police officials”.

20. In order to adjudicate the said issue it would be relevant to note that it is the case of respondent no.4 in the writ petition that that Police Complaint Authority, U. T. Chandigarh came into existence in pursuance of the judgment passed by the Hon'ble Supreme Court in the case of **Prakash Singh & Ors (supra)** in which case the Hon'ble Supreme Court was pleased



to issue directions to the effect that there shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police and also that there should be another Police Complaints Authority at the State level to look into complaints against police officers of the rank of Superintendent of Police and above. Paragraph 32 sub clause (6) of the said judgment which has been reproduced in paragraph 17 of the writ petition is reproduced hereinbelow:-

*“(6) There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district level Authority may be headed by a retired District Judge while the State level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. These Authorities may be assisted by three to five members depending upon the volume of complaints in different States/districts, and they shall be selected by the State Government from a panel prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission. The panel may include members from amongst retired civil servants, police officers or officers from any other department, or from the civil society. They would work whole time for the Authority and would have to be suitably remunerated for the services rendered by them. The Authority may also need the services of regular staff to conduct field inquiries. For this purpose, they may utilize the services of retired investigators from the CID, Intelligence, Vigilance or any other organization. **The State level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district level Complaints Authority would, apart from above cases, may***



also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority.”

A perusal of the above judgment would show that it was observed by the Hon'ble Supreme Court that the State Level Complaint Authority would take cognizance of allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody and the district level Complaints Authority would, apart from above cases, may also inquire into allegations of extortion etc. and the recommendations of the said authority against delinquent police officials shall be binding. No reference has been made with respect to there being any power with the PCA to recommend or take action against a private person.

21. Reliance in the writ petition has further been placed by respondent no.4 (petitioner in the writ petition) on the letter dated 23.03.2010 (Annexure P-11) vide which the Ministry of Home Affairs had directed the setting up of the Police Complaints Authorities at the Union Territory level in pursuance of the judgment of the Hon'ble Supreme Court in ***Prakash Singh's case (supra)***. The same also included the Union Territory Chandigarh as is apparent from a perusal of the said letter and which letter also mentioned the details of powers and functions of the said Police Complaints Authority. Further reference in the writ petition in paragraph 19 has been made to the Government notification dated 29.03.2010 vide which the Central Government had extended to the Union



Territory of Chandigarh, the Punjab Police Act 2007 as in force in the State of Punjab and also to the notification dated 23.06.2010 (Annexure P-13) (in paragraph 20 of the writ petition) vide which in pursuance of the letter dated 23.03.2010 (Annexure P-11) of the Government of India, Ministry of Home Affairs, New Delhi, the Administrator, Union Territory of Chandigarh in exercise of the powers conferred by Section 54 of the Punjab Police Act, 2007 was pleased to constitute the Police Complaints Authority for Union Territory of Chandigarh. Clause 3 of the Notification dated 23.06.2010 (Annexure P-13) which deals with the powers and functions of the Police Complaints Authority, which is relevant for considering the first issue which arises in the present set of cases is reproduced hereinbelow:-

“3. Power and functions:

(a) *The functions of the Police Complaints Authority are as under:-*

(i) *The Authority shall **inquire into allegations of “serious misconduct” against police personnel**, as detailed below, either suo moto or on a complaint received from any of the following:*

- (a) *a victim or any person on his / her behalf;*
- (b) *the National or the State Human Rights Commission;*
- (c) *The police; or*
- (d) *any other source.*

*Explanation:- “**Serious misconduct**” for the purpose of this clause shall mean any act or omission of a police officer that leads to or amounts to:*

- (a) **death in police custody;**
- (b) *grievous hurt, as defined in Section 320 of the Indian Penal Code, 1860;*
- (c) *rape or attempt to commit rape;*
- (d) **arrest or detention without due process of law;**
- (e) *extortion;*
- (f) *land/house grabbing; or*
- (g) **any incident involving serious abuse of authority;**

Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the



veracity of the complaint.

(ii) The Authority may also enquiry into any other case referred to it by the Administrator, Union Territory of Chandigarh or Central Government.

(b) The powers of the Police Complaints Authority are as under:-

(i) The Authority may require any person or authority to furnish information on such points or matters as in the opinion of the Authority may be useful for or relevant to the subject matter of enquiry;

*(ii) The Authority, before finalizing its opinion, **shall give the Police Officer heading the Police Force in the Union Territory of Chandigarh an opportunity to present the department's view and additional facts, if any, not already in the notice of the Authority and in such cases, the Authority may review its findings upon receipt of additional Information from the Police Officer heading the Police Force in the Union Territory of Chandigarh that may have a material bearing on the case.***

*(iii) In the cases directly inquired by the Authority, it may, upon completion of the inquiry, **communicate its findings to the police officer heading the Police force in the Union Territory, Chandigarh with direction to:-***

(a) register a First Information Report; and/or

(b) initiate departmental action based on such findings, duly forwarded the evidence collected by it to the police.

(iv) The recommendation of the Police Complaints Authority shall ordinarily be binding, unless for the reasons to be recorded in writing, the Administration decides to disagree with the findings of the Authority.”

A perusal of the above clause would show that the Police Complaints Authority has jurisdiction to enquire into allegations of “serious misconduct” against police personnel. Serious misconduct has also been explained in the explanation and the same consists of acts such as death in police custody, arrest or detention without due process of law and other



aspects and Clause (g) refers to any incident involving serious abuse of authority. It has further been provided in sub clause (b)(ii) that the police officer heading the police force in Union Territory Chandigarh is to be given an opportunity to present the view of the department and the authority has the right to review its findings after additional facts, if any, are brought to its notice which were earlier not in the notice of the authority. Sub clause (iii) (b) provides for taking departmental action based on such findings.

22. A reading of the above said clauses and also the reading of the judgment of the Hon'ble Supreme Court in ***Prakash Singh & Ors (supra)*** makes it clear that the jurisdiction of the Police Control Authority is to enquire into the allegations against police officers and not against private persons. Even the action is required to be taken against police officials alone. It is for the said reason that the police officer heading the police force is required to be given an opportunity to present the department's view and also power has been given to initiate departmental action.

23. The said issue is no longer res-integra and the Division Bench of this Court in the case of ***Ranjit Singh Bath and another (supra)*** has held that the Police Complaints Authority has no jurisdiction to go into the merits of the dispute between the parties and the jurisdiction is limited to the extent of enquiring the allegations of serious misconduct against the police personnel only. In the above said case, the authority vide order dated 08.09.2015 had directed that the complaint of respondent no.2 therein be reinvestigated and the said order was challenged by the petitioners therein on the ground that the authority had no jurisdiction to direct investigation of the complaint filed by respondent no.2 against the petitioner who was a private



person. The Co-ordinate Bench after considering the powers and functions of the Police Complaints Authority came to the conclusion that the Police Complaints Authority had no power to go into the merits of the complaint filed by any person against another person. In the said case also, there was a dispute between respondent no.2 therein and the petitioner therein with reference to an agreement to sell dated May 2011 and complaint was filed by respondent no.2 therein against the petitioner therein to the police on 20.01.2014 and thereafter respondent no.2 therein had filed a complaint to the PCA on 17.11.2014 praying for taking suitable action against the erring official on the ground that the matter was not properly investigated and further prayer was made for registration of the FIR. The Police Complaints Authority although did not take any action against any police officials, however it went into the merits of the dispute between the parties and directed that there was further scope of investigation of the complaint and ordered that the matter be re-enquired into. The Division Bench in the abovesaid judgment observed that the said order was not within the jurisdiction of the Police Complaints Authority as it could not get into the merits of dispute between the parties. Accordingly, the direction to that extent was set aside and even consequential proceedings were also set aside, although in the said case FIR had also been registered. It would be relevant to note that even the counsel appearing for UOI in the abovesaid case had submitted that the PCA had jurisdiction only to look into the complaint against police officials and could not examine the complaint filed by the complainant against other persons. The relevant portion of the said judgment is reproduced hereinbelow:-



“4. Learned counsel appearing for Union of India submitted that only jurisdiction vested with the Authority is to enquire into the complaints filed against the police officials/ officers and the Authority could not examine the merit of the complaint filed by a complainant against some accused person.

5. Learned counsel for respondent no. 12 submitted that respondent no. 12 has been cheated. The matter was not properly investigated by the Investigating Officer. The material produced by him was not considered especially the CD. If the matter is investigated properly, it is a clear case where FIR is required to be registered.

6. Heard learned counsel for the parties and perused the paper book.

*7. In terms of the order passed on 29.6.2015, the report of the enquiry conducted by Deputy Inspector General of Police, U. T. Chandigarh, dated 17.9.2015, was produced in Court in a sealed cover. The same was opened and perused. A copy thereof has been retained on file and the original has been returned to counsel for U.T. Chandigarh. **After investigation, the Deputy Inspector General of Police has recommended for registration of FIR under Sections 406, 420, 120-B IPC against the petitioners. Be that as it may, the question as raised by learned counsel for the petitioners is as to whether the Authority had jurisdiction to direct reinvestigation of the complaint filed by respondent no. 12 against the petitioners or the officials before the Authority against alleged misconduct by him.***

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....Nowhere in the notification constituting the Authority, any power has been given to the Authority to go into the merits of the complaint filed by any person against another person.

11. In the case in hand, on account of some dispute arising between respondent no. 12 and the petitioners with reference to an agreement to sell signed in May, 2011, a complaint was filed by respondent no. 12 against the petitioners to the police on 20.1.2014....

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*.....Thereafter, respondent no. 12 filed a complaint before the Authority on 17.11.2014 praying for taking suitable action against the erring officers alleging that the matter was not properly investigated. Further prayer was made for registration of FIR. The authority vide its order dated 8.4.2015 did not find any merit in the complaint filed by respondent no. 12 against the police officials/ officers, **however, it went into the***



merits of the dispute between the parties namely, the petitioners and respondent no. 12 and directed that there is further scope of investigation of complaint and it would be proper if the matter is enquired into.

12. If the judgment of Hon'ble the Supreme Court in Prakash Singh's case (supra) is read along with notification dated 8.11.2013 issued by Chandigarh Administration constituting the Police Complaints Authority, it had no jurisdiction to go into the merits of the dispute between the parties. The jurisdiction is limited to the extent of enquiring the allegations of serious misconduct against the police personnel only. As the authority had travelled beyond its jurisdiction, the direction to that extent are set aside and consequential proceedings are also set aside.

24. It would be relevant to note that Clause 3 of the Notification dated 08.11.2013 which has been reproduced in the above said judgment is verbatim the same as Clause 3 of the notification which has been annexed with the writ petition (Annexure P-13) and the relevant portion of which has been reproduced hereinabove.

25. The law laid down in the above said judgment would fully apply in the present case. It is not in dispute that as per the order dated 25.05.2012 (Annexure P-6), no action has been taken against any police officials and the FIR has been ordered to be registered against the present appellants who are private parties and not police officials. No police officer by name has been made party in the writ petition nor any prayer has been made for taking action against any police official. The present appellants were not made party in the complaint dated 23.03.2012 (Annexure P-5) nor they were given any opportunity of hearing nor their version was considered by the Police Complaints Authority. Specific objection was taken in the written statement filed by one of the appellants to the effect that the order



dated 25.05.2012 was void-ab-initio. The relevant portion of the reply of one of the appellants 'LIC' who was respondent no.5 in the writ petition is reproduced hereinbelow:-

*“Moreover, the order dated 25.05.2012 passed by the PCA in taking cognizance of the complaint filed by the petitioner vide which it gives direction to lodged an FIR **against the private respondents, is void ab-initio primarily on the ground that the entertain-able nor maintainable under the Police Complaints Authority.***

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The complaint to the Police Authority under the statue is only with regard to complaint of misconduct by any Police Officials in the exercise of his functions as a Police Officer in the discharge of the duty under law.”

26. The learned Single Judge did not take into consideration the said objection while upholding the order dated 25.05.2012 vide which the FIR was ordered to be registered against private persons i.e. present appellants.

27. It would also be relevant to mention that in the present proceedings while considering the objection raised by private respondent no.4 with respect to maintainability of the present LPAs, the Division Bench of this Court had also opined that the order dated 25.05.2012 was without jurisdiction. The relevant portion of the said order has been reproduced hereinbelow:-

*“22. In the case in hand, in terms of the facts as noticed above, first order was passed by the Authority against the private persons on a complaint made by respondent No.4 directing registration of FIR and investigation thereof. **Order was totally without jurisdiction in terms of the powers vested with the Authority.** The appellants against whom the FIR was directed to be registered by the Authority vide order dated 25.05.2012 filed a review application which was accepted and vide order dated*



19.09.2012 earlier order dated 25.05.2012 was recalled.

*23. The order dated 19.09.2012 passed by the Authority accepting the review application was challenged by respondent No.4 **before this Court by filing Civil Writ Petition No.20425 of 2012 wherein a specific objection was taken regarding jurisdiction of the Authority for directing registration of FIR against private person as the Authority had been constituted only to go into the allegations of ‘serious misconduct’ against the police personnel’s. The learned Single Judge without going into the issue of jurisdiction set aside the order passed by the Authority in review and reiterated the direction given in the earlier order for registration of FIR against the private persons. In fact that order merely reiterated the order passed by the Authority.***

*24. The appellants in the present case could have challenged the order passed by the Authority dated 25.05.2012 directing registration of FIR by filing a writ petition in this Court on whatever grounds available to them and one of which as was even pleaded in the reply to the writ petition filed by respondent No.4 could be that the Authority did not have the jurisdiction to direct registration of FIR against the private persons. **The claim of the appellants would have been dealt with in terms of the legal position considering the jurisdiction of the Authority.***

25. A Division Bench of this Court in Parkash Singh’s case (supra) while examining the powers vested with the Authority had opined that it cannot direct registration of FIR against the private persons.

*26. Once the issue regarding jurisdiction of the Authority regarding direction for registration of FIR goes to the route of the case which has not been examined by the learned Single Judge while reiterating the directions given by the Authority in the order dated 25.05.2012 for registration of FIR against the private persons, in our view the case will not fall within the exceptions carved out by Hon’ble the Supreme Court in Ram Kishan Fauji’s case (supra) in terms of which an LPA against the order passed by the learned Single Judge exercising criminal jurisdiction is not maintainable. **In that case, jurisdiction of the Authority to pass order was not in question. A litigant in such a situation cannot be left remediless. The fact remains that in the case in hand, the Authority did not have jurisdiction to pass the order, which has been upheld by the Single Bench and compliance of which has been directed. Meaning thereby, the learned Single Judge failed to exercise the jurisdiction vested in him while passing the impugned order, that too without even***



discussing the specific contention raised by the appellant in the written statement, an issue which required detailed consideration.

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28. In view of our above discussions, in our opinion, the present appeals are maintainable.

29. Let the same be listed for arguments on merits on 24.7.2018 as per roster.

30. A copy of this order be placed on the file of each connected case.”

28. The SLP filed by respondent no.4 against the above said order dated 06.07.2018 was withdrawn on 07.09.2018. The relevant portion of the order passed in the above said SLP is reproduced hereinbelow:-

“Date: 07-09-2018 These matters were called on for hearing today.

CORAM:

*HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDIRA BANERJEE*

For Petitioner (s) Petitioner-in-person.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

After arguing the matter for some time, petitioner who appeared in person seeks permission to withdraw the special leave petitions.

Permission is granted.

The special leave petitions are dismissed as withdrawn.”

29. It is thus, clear that the order passed by the Police Complaints Authority dated 25.05.2012 (Annexure P-6) directing the registration of the FIR against the present appellants who are not police officials is without jurisdiction and is not sustainable and the judgment of the learned Single Judge upholding the said order without considering the said important aspect deserves to be set aside on the said ground alone. The first issue, thus stands decided in favour of the appellants.



Cloak of criminal proceedings:

30. It would also be relevant to note that the dispute between the parties has civil trappings. The rival stands of the appellants as well as private respondent no.4 have been noticed above in paragraph 13 to 15 and paragraph 16, 17 respectively while noting the arguments raised on behalf of the appellants and respondent no.4. The fact that on 19.06.2007 the 'LIC' had issued sale notice for inviting the general public for purchase of immovable properties at reserve price and that in response to the same, the appellant Jasbir Kaur and private respondent no.4 had expressed their interest jointly vide letter dated 15.03.2008 for purchasing the six properties which were sought to be auctioned and also the fact that the Branch Manager had issued letter dated 18.03.2008 to the appellant Jasbir Kaur and private respondent no.4 and had asked them to furnish documents so that the deal could be finalised are not much in dispute. The respondent no.4 even in his complaint dated 24.03.2011 (Annexure P-1) has admitted the said facts. As noticed above, it is the case of the appellant Jasbir Kaur that she had paid the substantial amount of sale consideration of Rs.8 lacs vide draft no.708406 dated 29.04.2008 and even sale certificates dated 17.04.2008, 30.04.2008, 12.05.2008, 15.07.2008 and 18.04.2009 were issued in favour of both Jasbir Kaur and respondent No.4 and the same have been annexed along with the written statement. It is further the case of the appellants that appellant Jasbir Kaur never backed out from the said agreement and it is respondent no.4 who had created false documents including the sale agreement dated 15.04.2008 and no dues certificate dated 31.03.2009 to claim that he is the sole owner and has thus, committed cheating with her. On the other hand, it



is the case of respondent no.4 that the present appellant Jasbir Kaur changed her mind after the initial proposal and backed out from the agreement and the respondent no.4 pursued the transaction and the agreement to sell dated 15.04.2008 was executed in his favour.

31. It is not in dispute that respondent no.4 had filed a consumer complaint and the District Consumer Disputes Redressal Forum in the first instance allowed the said complaint and had directed the 'LIC' to issue sale certificate in favour of respondent no.4 along with other reliefs. Two appeals against the said order were filed by Jasbir Kaur and 'LIC' and the State Consumer Disputes Redressal Commission vide order dated 11.09.2012 was pleased to allow the said appeals. Paragraphs 22, 23, 24, 25, 26 and 29 to 32 of the said appeal are reproduced hereinbelow:-

"LIC Housing Finance Ltd., through its Area Manager and authorized officer, C/o SCO 2445-46, 1st Floor, Sector 22-B, Chandigarh.

...Appellant / Opposite Party No.1.

Versus

[1] Satish Kumar Saini s/o Sh. Baldev Raj Saini, R/o # 1089, Phase IX, Mohali.

.....Respondent/Complainant.

[2] Mrs. Jasbir Kaur w/o Sh. Kuljit Singh, R/o #1507, Sector 40-B, Chandigarh.

[3] Smt. Ram Piari w/o Sh. Chattar Pal, R/o Vill. Bhankarpur, Backside Allenzer Factory, Ramgarh Road, Derabassi. Tehsil Derabassi, District Mohali. [Service of Respondent No.3 dispensed with vide order dated 27.04.2012].

....Proforma Respondents/Opposite Parties No.2 &

xxx xxx xxx

22. The next issue raised by the Counsel for the appellant/OP No.1 is that the complainant committed fraud and the document Annexures A-3 i.e. agreement to sell, placed on record of the District Forum, is forged



and fabricated and has no validity in the eyes of law, as the same was not executed on a valid stamp paper. He further submitted that the first page of this agreement does not bear the signatures of the seller and it only bears the signature of the purchaser, whereas the second page, bears the signatures of both the seller as well as the purchaser. He further submitted that nobody attested this agreement, as the space for incorporating the names of the witnesses, under the heading "Witnesses", is blank. He further submitted that even the full and final payment certificate dated 31.03.2009 (Annexure C-4), placed on record, was never issued in the name of the complainant by Opposite Party No.1, as the original of the same is not on the record. It is important to mention here that the receipt has been printed on the reverse of the first page of the agreement to sell (Annexure A3), the genuineness of which is doubtful. Therefore, this receipt cannot be relied upon. He further submitted that the complainant was DSA with it, and was not performing his functions well and due to numerous complaints, his agency was terminated on 19.02.2010 (Annexure OP-1/2). He further submitted that after receiving a Bank Draft No.708406 dated 29.04.2008 for an amount of Rs.8 Lacs, from Opposite Party No.2, out of total sale consideration of Rs.12,55,000/- and also after receiving a sum of Rs.4,55,000/- from the complainant, Sale Certificates (Exhibit OP- 1/6 to OP-1/11) were duly prepared in the joint names of the complainant as well as Opposite Party No.2, and were kept ready, but they never came together to receive the same.

23. *In the cross appeal filed by the appellant/Opposite Party No.2, the Counsel for the appellant/ Opposite Party No.2 submitted that the complainant had played fraud with Opposite Party No.2, with the motive to grab the property, in question. He further submitted that the complainant cheated her intentionally, by concealing the true facts as well as by forging Annexures A-3 and A-4 and by further entering into an Agreement to sell dated 07.02.2011, fully knowing well that he was not alone the owner of property in question. However, the complainant in his rejoinder, has not rebutted the allegations of Opposite Party No.2. He further submitted that regarding this fraud, a complaint was duly lodged and a DDR was recorded against the complainant, which is annexed at running Page 124 of the complaint file. He further submitted that the complainant has not approached the Consumer Fora, with clean hands and therefore, he cannot derive any benefit out of his own wrongs.*



24. *The Counsel for respondent No.1/complainant, while denying the submissions made by Counsel for the Opposite Parties No.1 and 2, submitted that, the Opposite Party No.1 was now illegally including the name of Opposite Party No.2 along with the complainant, with the intention to defraud him. He further submitted that the complainant had paid the entire consideration amount to Opposite Party No.1 and agreement to sell dated 15.04.2008, was executed in his favour only but now, at the time of issuance of sale certificate, Opposite Party No.1 is illegally involving Opposite Party No.2 as purchaser with the complainant.*

25. *Since serious allegations of fraud, cheating and fabrication of material documents have been leveled by Opposite Parties No.1 and 2 against the complainant, which require examination, cross-examination and re-examination of the witnesses, in as such, the Consumer Foras, cannot decide such complicated and disputed issues, in summary proceedings. Such complicated and disputed issues, can only be decided by a Civil Court of competent jurisdiction.*

26. *The next issue raised by the Counsel for the appellant/Opposite Party No.1 is that Annexure A-3 is only an agreement to sell and the remedy available to the complainant, is to file a suit for specific performance, of the same. Since, for the purchase of properties, on as is where is basis, the complainant did not hire the services of Opposite Party No.1, for provision of any facility or amenity, in case there was any breach of contract i.e. agreement to sell (Annexure A3), by Opposite Party No.1, then the only remedy with the complainant was to file a suit for specific performance, in a Civil Court of competent jurisdiction. The consumer Complaint, was, thus, not maintainable.*

xxx xxx xxx

29. *In view of the above discussion, we are of the considered opinion that the order of the District Forum being illegal and perverse, needs interference of this Commission. **Therefore, both the appeals filed by the appellants/Opposite Parties No.1 & 2, are liable to be accepted and the complaint is liable to be dismissed.***

30. *For the reasons recorded above, both the appeals bearing No.73 of 2012, filed by the appellant/Opposite Party No.1 i.e. LIC Housing Finance Limited, and No.75 of 2012, filed by the appellant/Opposite Party No.2 i.e. Mrs Jasbir Kaur, are accepted, with no orders as to costs. The impugned order dated 02.02.2012, passed by the District Forum, is set aside.*



31. Respondent No.1/complainant shall, however, be at liberty to resort to any other remedy available to him, under the provisions of law.

32. Certified copies of the order be placed in First Appeal No.75 of 2012.

33. Copies of this order be sent to the parties, free of charge.

11 September, 2012.

Sd/-
[JUSTICE SHAM SUNDER (RETD.)]
PRESIDENT

Sd/-
[NEENA SANDHU]
MEMBER”

A perusal of the above order would show that it was noticed that the present appellants had raised serious allegations against respondent no.4 and the entire aspect required consideration of voluminous record and complicated questions which could be decided only by the civil court and that even with respect to the agreement which was relied upon by respondent no.4, the remedy of respondent no.4 was to file suit for specific performance.

32. The said order passed by the State Consumer Disputes Redressal Commission was upheld by the National Commission vide order dated 25.09.2014 and even the SLP no.441-2015 was dismissed by the Hon'ble Supreme Court vide order dated 27.01.2015 and while dismissing the SLP, it was observed that liberty was granted to respondent no.4 herein to take steps as is permissible in common law. Even the second SLP filed against the common orders passed by the State Consumer Disputes Redressal Commission i.e., Special Leave to Appeal (C) no.11398/2016 was also dismissed vide order dated 07.11.2016. It would also be relevant to note that respondent no.4 has filed civil suit no.625/2018 against 'LIC' and Jasbir Kaur for declaration to the effect that he is the owner of the six properties in



question. Similarly, Jasbir Kaur has filed civil suit no.12106/2013 against LIC Housing Finance Limited and Satish Kumar Saini for declaration to the effect that she is owner to the extent of 63.70% and that the present respondent no.4 is owner to the extent of 36.30% share in the property in question.

33. The Hon'ble Supreme Court has repeatedly observed that there is a growing tendency to convert civil disputes into criminal cases on account of the impression that civil law remedies are time consuming and do not adequately protect interest of the party and in case a person is entangled with criminal prosecution, there is a likelihood of imminent settlement and that such a practice is required to be depreciated. It has further been observed that where the dispute of civil nature has been given colour of criminal offence then the Court should pass necessary orders to protect the interest of the person who is being sought to be implicated in the criminal proceedings. Reference in this regard may be made to the judgments of the Hon'ble Supreme Court in *Mitesh Kumar J. Sha vs. State of Karnataka and others*, reported as *2021 AIR (Supreme Court) 5298*; *M/s Indian Oil Corporation vs. M/s NEPC India Ltd. & Ors.* reported as *(2006)6 SCC 736*; *Syed Yaseer Ibrahim vs. State of Uttar Pradesh and another* passed in *Criminal Appeal No.295 of 2022 decided on 28.02.2022*; *Uma Shankar vs. State of Bihar* reported as *2005(10) SCC 336* and *Hotline Teletubes and Components Ltd. & others vs. State of Bihar and another* reported as *2005(10) SCC 261*.

34. After having considered the facts and circumstances of the present case, we are of the view that the pleas with respect to the transaction



in question, which have been raised by all the parties would be best decided in the civil proceedings initiated by the parties and resort to criminal proceedings is uncalled for.

Maintainability of Review Application:

35. In the present case, respondent No.4 had initially questioned the maintainability of the present LPAs and as has been stated hereinabove the Division Bench in the present proceedings, vide order dated 06.07.2018 had held that the LPAs are maintainable and the SLP against the said order had been withdrawn without seeking any liberty. In the said detailed order dated 06.07.2018, apart from the fact that it was observed that the order dated 25.05.2012 was without jurisdiction and that the learned Single Judge had in spite of a specific objection raised in the written statement, not considered the said issue. It was further observed that once the issue regarding jurisdiction of the authority to issue directions for registration of an FIR against private persons goes to the root of the case and that the said aspect has not been examined by the learned Single Judge while upholding the said directions, then, LPA against the said order passed by the learned Single Judge in a writ petition filed under Article 226 of the Constitution of India would be maintainable. After having withdrawn the SLP against the said order the respondent No.4 has filed review application(s) for reviewing the order dated 06.07.2018. In the garb of filing review petitions, it is not open to respondent No.4 to reargue the said issue, moreso, when SLP against the detailed order dated 06.07.2018 has been withdrawn. Moreover, as has been stated hereinabove, counsel for the appellant(s) and respondent No.4, who appeared in person, have made their arguments on the merits of the LPA and



thus, we find no reason to review the order dated 06.07.2018, the SLP against which has been withdrawn without any liberty and accordingly the review applications are dismissed.

36. The Hon'ble Supreme Court in the case of “***State of Punjab Vs. Davinder Pal Singh Bhullar and others etc., 2011 SCC Online SC 1545*** has observed that in case initial action is found to be not in consonance with law, then, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In the said case it was observed that once the impugned order was set aside, the subsequent proceedings including FIR/investigation were liable to be declared non est.

The relevant portion of the said order is reproduced: -

“72. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "sublato fundamento cadit opus" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

*73. In ***Badrinath v. State of Tamil Nadu & Ors., 2000(4) S.C.T. 832 : and State of Kerala v. Puthenkavu N.S.S. Karayagoam & Anr., (2001) 10 SCC 191***, this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.*

*74. Similarly in ***Mangal Prasad Tamoli (dead) by Lrs. v. Narvadeshwar Mishra (dead) by Lrs. & Ors., (2005) 3 SCC 422***, this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*

*75. In ***C. Albert Morris V. K. Chandrasekaran & Ors., (2006) 1 SCC 228***, this Court held that a right in law exists only and only when it has*



a lawful origin.

76. Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/ investigation stand automatically vitiated and are liable to be declared non est.”

In the present case once the order dated 25.05.2012 has been held to be without jurisdiction, then all subsequent proceedings arising from the same including the registration of FIR also deserves to be quashed/set aside.

37. Keeping in view the above-said facts and circumstances and the law laid down in the abovesaid judgments, we are of the opinion that all three LPAs deserve to be allowed and the judgment of the learned Single Judge upholding the order of the Police Complaint Authority dated 25.05.2012 (Annexure P-6) deserves to be set aside and all proceedings subsequent to the same also deserve to be set aside/quashed. Accordingly, all the three LPAs are allowed and the judgment of the learned Single Judge is set aside and all the subsequent proceedings including the FIR no.349 dated 05.12.2014 registered under Sections 420, 406, 409, 423, 464, 467,468, 471, 120B IPC at Police Station Sector 17 Chandigarh also stands set aside/quashed.

38. All pending application(s), if any, stand disposed of in view of the abovesaid order.

39. It is however made clear that we have not finally opined on the merits of the dispute with respect to the purchase of the properties in question between the parties and the present order should not be construed as an approval of the version of one party over the other. It would be open to

