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

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**CRM-M-52553-2024 (O&M)
Date of decision: 18.03.2025**

Kiranjit Kaur and another**...Petitioners**

Versus

State of Punjab and others**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Nikhil Thamman, Advocate and
Ms. Sunaina, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking issuance of direction to respondent No. 6 to act in accordance with the inquiry report dated 09.05.2024 (Annexure P-10) and initiate criminal proceedings under Section 82(a) of the Registration Act, 1908 against respondents No. 7 and 8.

2. Learned counsel for the petitioners has submitted that in a civil suit filed by the uncle of the petitioners, namely Sukhdev Singh, the learned trial Court had passed order dated 12.08.2022 restraining the respondents from alienating, transferring and mortgaging the suit property till 05.09.2022. The petitioners have also filed a civil suit against respondents No. 7, 8 and some other persons and vide order dated 14.10.2022, the respondents were restrained from alienating the suit property till 01.11.2022. However, respondent No. 7 transferred a piece of land to respondent No. 8 on 20.10.2022 by mentioning that no court case was pending qua that property and also that no stay order(s)

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from any Court had been passed. Being aggrieved, the petitioners had moved a representation to respondent No. 3-Sub Divisional Magistrate, Rajpura, which was inquired into by respondent No. 4-Tehsildar, Rajpura, whereby it was found that respondents No. 7 and 8 had violated the provisions of Registration Act, 1908 by concealing the factum of pendency of Court cases and stay orders having been passed therein. A letter was written by respondent No. 3 to respondent No. 4 on 01.04.2024 with regard to initiating appropriate action in the matter. Subsequently, respondent No. 4 has written a letter to respondent No. 6-DSP, Rajpura for initiating legal action against respondents No. 7 and 8 but till date no FIR has been registered against them and no legal action has been taken. It is, thus, urged that appropriate direction be issued to official respondents to take legal action against the said respondents by registering an FIR.

3. Upon notice, short reply by way of affidavit of respondent No. 6-DSP, Rajpura has been filed. It is submitted therein and learned State counsel has argued that since it was found that the petitioners had already filed a petition under Order 39 Rule 2A of CPC before the Court concerned against respondent No. 8 and others and the matter was subjudice before the Court, no legal action was taken in the matter and the representation filed by the petitioners was consigned after approval of Senior Superintendent of Police, Patiala.

4. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

5. Although, in the inquiry conducted by the Tehsildar, Rajpura, it was found that respondent No. 7 had concealed the factum of pendency of cases and restraining orders being passed qua the suit property while transferring a

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piece of land to respondent No. 8 but it is an admitted position that a petition under Order 39 Rule 2A of CPC has already been filed by them which is pending adjudication before the civil Court. The prayer of the petitioner for registering an FIR against the said respondents cannot be entertained by this Court as the remedy for a person having grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, is not to approach the High Court but to go to the Magistrate concerned under Section 156 (3) of Cr.P.C. Reference in this regard can be made to *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*. Reliance can further be placed upon *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others, (2016) 6 SCC 277*, wherein it was observed by Hon'ble Supreme Court that if proper investigation is not being done by the police then the remedy for the aggrieved person is not to go to High Court but to approach the Magistrate concerned under Section 175(3) of BNSS (*which is pari materia with Section 156 (3) of Cr.P.C.*) as it is the Magistrate who can give direction for registration of FIR and even to conduct proper investigation to be done.

5. In view of the above position, it is observed that the petition is not maintainable and the same is hereby dismissed, however, without having any prejudice to the right of the petitioners to avail appropriate remedy in accordance with law.

18.03.2025

Waseem Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*