

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.03.2015

CORAM

THE HON'BLE MR. JUSTICE R.KARUPPIAH

Cr1.O.P.No.5686 of 2015

1.Anbalagan
2.S.Saroja

... Petitioners

Vs.

1. State rep.by the
Superintendent of Police,
Kancheepuram District,
Kancheepuram.
2. The Inspector of Police,
Tiruporur Police Station,
Tiruporur,
Kancheepuram District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to direct the second respondent to register the case based on the complaint given by them on 28.04.2014.

For Petitioner : Mr/s.A.N.Rajan

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor.

O R D E R

The petitioners filed a complaint stating that entered into an agreement of sale with Lalitha Subramaniam, Vijai Subramaniam, for selling their 14 cents of lands in S.No.37/2A , OMR. Kalavakkam Main Road, Tiruporur, for consideration of Rs.1,15,00,000/- (Rupees one crore and fifteen lakhs only) and received a sum of Rs.2,00,000/- on 07.04.2013 and Rs.3,00,000/- on 13.05.2013 respectively. The said agreement holders promised to pay the balance amount of Rs.1,10,00,000/- (Rupees One crore and ten lakhs only), within a period of three months and get the sale deed executed in their favour on 13.05.2013 and believing their promise, the petitioners also

executed a registered sale deed. Thereafter on 15.05.2013, the purchaser paid a sum of Rs.14,00,000/- and they also paid Rs.1,00,000/- on 28.05.2013. Thereafter failed to pay the balance sale consideration of Rs.95,00,000/-, after much persuasion, the petitioners received a sum of Rs.72,00,000/- totally and the balance amount of Rs.43,00,000/- was not paid and the purchasers are dodging the petitioners and therefore, they have committed the offence of cheating.

2. The learned counsel for the petitioner submitted that the aforesaid purchasers by promising to pay the balance sale considerations obtained the sale deeds and failed to pay the balance sale consideration, after getting sale deed executed in their favour. The petitioners would not have executed the sale deed, but for the promise made by the purchasers and therefore, they have cheated the petitioners.

3. I am unable to accept the contention of the learned counsel for the petitioners. It is seen from the typed set of papers that on 13.05.2013, two sale deeds document Nos.6412 and 6413 were executed each in respect of 7 cents, one in favour of Lalitha Subramaniam and another in favour of Vijai Subramaniam. The consideration mentioned in the sale deed is only Rs.15,26,000/- and the entire considerations were paid. As the entire sale consideration was received by the petitioners, as per the sale deeds, the contention of the learned counsel for the petitioners that total sale consideration was Rs.1,15,00,000/- and the purchasers paid Rs.73,00,000/- and failed to pay the balance sale consideration cannot be accepted. If the purchasers have failed to make any payment as alleged by the petitioners, remedy lies before the Civil Court and as per the complaint, no offence is made out. Hence the criminal original petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

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To

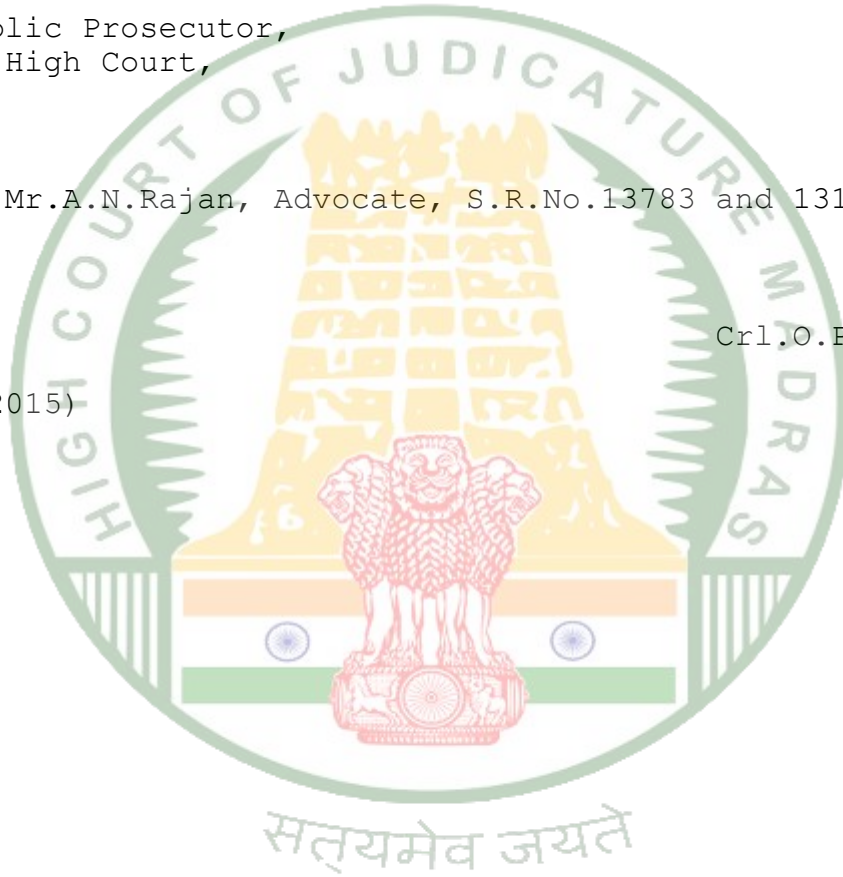
1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
2. The Inspector of Police,
Tiruporur Police Station,
Tiruporur, Kancheepuram District.
3. The Public Prosecutor,
Madras High Court,

Chennai-104.

+2cc's to Mr.A.N.Rajan, Advocate, S.R.No.13783 and 13104

Cr1.O.P.No.5686 of 2015

KSJ(CO)
CA(18/03/2015)



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