

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION NO.15840 of 2013

ORDER:

The petitioners/accused filed this Criminal Petition under Section 482 Cr.P.C. seeking quashment of Proceedings in F.I.R.No.83 of 2012 of Gajulamandyam Police Station, Tirupathi Urban District.

2) The private complaint filed by the complainant was forwarded by the learned II Additional Judicial Magistrate of First Class, Tirupathi, to Police Gajulamandaym P.S, who registered the same as F.I.R.No.83 of 2012 for the offences punishable under Sections 420 r/w 34 IPC and 156(3) of Cr.P.C. and investigating the matter.

3) The allegations in the complaint are that the complainant is the owner of the land bearing S.No.55/8 of an extent of Ac.0.38 cents in Athuru Group of village in Molagamudi Village of Renigunta Mandalam. The father of the accused namely A. Ramachandraiah Naidu entered into an exchange deed on 04.03.2005 with the complainant for exchange of complainant's land with the land of said Ramachandraiah. At the time of exchange deed, the accused and their father willfully did not disclose that their land was assigned land, which cannot be alienated to third parties. Keeping the complainant in darkness, they entered into exchange deed on 04.03.2005. The petitioners/accused acted as attestors to the exchange deed. Thus, the accused and their father cheated the complainant and the complainant came to know this fact recently and therefore, he lodged the private complaint, which was forwarded to police.

4) Heard both sides.

5) Denying the complaint allegations, learned counsel for petitioners/accused submits that the petitioners are only attestors to the document and they are not parties to the exchange deed and they do not

know the nature of the land and hence, no liability or criminality cannot be attributed to them. He alternatively argued that even if the complaint allegations are taken to be true, still they do not invite any criminal offence as the complainant can file a civil suit for cancellation of the exchange deed. On these submissions, learned counsel for petitioners argued that the continuation of the investigation would amount to abuse of process of law and hence, the proceedings may be quashed.

6) In oppugnation, the defacto complainant submitted that the accused were not merely the 3rd party attestors, but they are own sons of Sri Ramachandraiah, who was one of the parties to the exchange deed and hence, if investigation is conducted, their role in cheating the complainant would come out and hence, the petition may be dismissed.

7) Learned Public Prosecutor submits that investigation is in nascent stage.

8) Since the petitioners/accused are none other than the sons of Ramachandraiah, one of the parties to the exchange deed, their contention that they are 3rd parties to the exchange deed and they do not know anything about the nature of the property cannot be accepted at this inceptional stage. Their guilt or innocence can be found out only after thorough investigation. Hence, it is a fit case to direct the police to continue the investigation. However, considering the fact that the petitioners/ accused are Lawyer and employee in T.T.D Devasthanam respectively, the police can be directed not to arrest them pending investigation.

9) In the result, while dismissing the Criminal Petition, the Police of Gajulamandyam P.S, Tirupati Urban District, are directed to continue the investigation to its logical end. However, they shall not arrest the petitioners/accused during the course of investigation. The petitioners/accused are directed to cooperate with the investigating agency for smooth completion of investigation.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

U.DURGA PRASAD RAO,J

29-01-2015

Note: Issue C.C. by tomorrow.

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Dt. 29.01.2015

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