THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.13029 of 2013

ORDER:

1 . This Criminal Petition is filed by the petitioners-A1 to A3 under Section 482 Cr.P.C. seeking to quash the proceedings against them in Crime No.180 of 2013 on the file of Maheshwaram Police Station, registered for the offence punishable under Sections 420, 406 and 109 r/w 34 IPC.

2. The 2nd respondent filed a private complaint against the petitioners alleging that during the life time of his father, he purchased a land in Sy.No.238/1 and 238/2 admeasuring Ac.15.00 gts situated at Srinagar village of Maheswaram Mandal from A1 on 5.11.1979 through Agreement of sale for valid sale consideration of Rs.30,000/-. The complainant paid an amount of Rs.19,000/- on the same day to A1 and his father paid Rs.1,000/-. A1 agreed to execute a registered sale deed in favour of the father of the complainant. The father of the complainant died on 25.12.1979 leaving behind his wife, complainant and another son as legal heirs. Then, the complainant made several requests to A1 to execute registered sale deed in favour of the complainant and other legal heirs. In spite of notices, A1 did not execute any registered sale deed. The complainant and other legal heirs filed a suit and obtained a decree in their favour. Against the said decree, A1 filed appeal. Pending the appeal, A1 entered into an agreement of sale on 11.1.2008 with one Abbi Reddy Mallikarjuna Reddy and M. Bhanukiran. Even though the complainant approached the police to lodge a complaint against the accused along with relevant documents but the police refused to register a case on the ground that it is a civil matter. Hence, the 2nd respondent filed a private complaint. The said private complaint was referred to the Maheshwaram Police Station and the same was registered as a case in Crime No.180 of 2013.

3. Heard and perused the material available on record.

4. It is the case of the petitioners that the present complaint arises out of a civil

transaction and that civil disputes are pending between the petitioners and the de facto complainant, whereas it is the case of the 2nd respondent that after entering into the agreement of sale with his father, the 1st petitioner is stating that he is not the rightful owner of the property in question and that the said act of the 1st petitioner constitutes the offence of cheating.

5. After hearing the arguments of both the Counsel and perusing the material on record, without expressing any opinion regarding the rival submissions, this Court is of the view that this matter can be investigated into without arresting the petitioners.

6. Accordingly, the Criminal Petition is disposed of with a direction to the 1st respondent-police to complete the investigation in the above crime without arresting the petitioners, and file a final report, in accordance with law. The petitioners and the 2nd respondent are at liberty to produce all the relevant documents before the investigating agency to substantiate their cases. Miscellaneous petitions pending, if any, shall stand closed.

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JUSTICE RAJA ELANGO

Dated: 1.10.2015

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