

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.4612 of 2011

ORDER:

The criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners herein in C.C.No.351 of 2010 on the file of the Additional Judicial Magistrate of First Class, Gudur, SPSR Nellore District.

Learned counsel for the petitioners/A2 and A3 states that a plain reading of the complaint clearly goes to show that the dispute between the parties if any is of purely civil in nature and in fact for redressal thereof, the 1st respondent-defacto-complainant has filed a suit in O.S.No.208 of 2010 on the file of the Senior Civil Judge, Gudur for specific performance of contract, dated 01-05-2010, which is the subject matter of the present criminal complaint. It is submitted that in between A2 and the 1st respondent-complainant, there was an agreement of sale in respect of certain properties on 01-05-2010 and the total consideration is of Rs.4,80,000/-, out of which, the 1st respondent paid Rs.50,000/- and the balance was agreed to be paid on or before 16-06-2010. The clause under the agreement of sale stipulates that in the event of failing to do so, the advance amount is liable to be refunded.

It is not in dispute that the 1st respondent-defacto-complainant failed to pay the amount within the stipulated period and consequently A2 executed an agreement of sale in respect of the selfsame property with the petitioner/A3 on 20-07-2010. Since the dispute involved in the present case is clearly covered by O.S.No.208 of 2010, which is filed by the 1st respondent/defacto-complainant against the petitioners for specific performance of contract, dated 01-05-2010, the continuation of

criminal proceedings is nothing but abuse of criminal justice system and therefore, the same is liable to be quashed.

In view of the above circumstances, all further proceedings in C.C. No.351 of 2010 on the file of the Additional Judicial Magistrate of First Class, Gudur, in so far as the petitioners/A2 and A3 are hereby quashed.

Accordingly, the Criminal Petition is allowed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 09.07.2015

Prv