

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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Criminal Petition No. 3591 of 2015

Order:

The instant petition is filed, under Section 482 of the Code of Criminal Procedure, 1973, requesting to quash the FIR in Crime No.82 of 2015 of Munagala Police Station, Nalgonda District, for the offences punishable under Sections 420 and 406 IPC, levelled against the petitioners herein, who are arraigned as A-1 and A-2 respectively.

2. The facts would reveal that the *de facto* complainant, who is the first respondent herein, and one Maduri Prasad are the owners of Ac.15-48 cents of land comprised of Survey Nos.125 and 126, situated at Madhavaram, Munagala Mandal. The petitioners herein approached them offering to pay Rs.13,40,000/- per acre and requesting them to sell the said land and, pursuant thereto, an agreement of sale, dated 20.09.2013, was entered and, as per the terms of the agreement, 1/4th of the sale consideration, amounting to Rs.51,85,800/-, was paid to them and the second instalment of equal amount, as per the terms, has to be paid within four months thereafter, and the balance was agreed to be paid within nine months thereafter. As per the request, even survey was done, but the petitioners have not come forward to pay the second instalment and, in regard thereto, an elders mediation was held on 18.07.2014, as per which decision, they agreed to sell Ac.3-87 cents, which is the eastern portion of the entire extent and, a settlement deed was also entered on 18.07.2014 and, as requested by the petitioners, a registered sale-cum-GPA was also executed in favour of one Mandadapu Subba Rao, but, the petitioners, having retained the original agreement, dated 20.09.2013, without having any right over the land, executed another agreement, dated 29.01.2015, in favour of one Barmavath Lachiram Naik of Kodad, for a sum of Rs.34,99,999/- and, thereby, committed the said offences.

3. Heard both sides.

4. Learned counsel for the petitioners submits that the facts would show that the dispute is purely civil in nature and it is nothing but abuse of process of law and, therefore, sought to quash the FIR.

5. Learned Assistant Public Prosecutor opposed the said request contending that it is a clear case of cheating and misappropriation.

6. As seen from the facts occurring in the complaint, certainly, there is material, *prima facie*, sufficient to investigate into the offences levelled by the first respondent and nothing is forthcoming to cull out in inferring abuse of process of law as contended by the petitioners.

7. Hence, the instant Criminal Petition is dismissed, however, having regard to the facts and circumstances occurring herein, the concerned police are directed to resort to the procedure contemplated under Section 41-A Cr.P.C., as per the decision of the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**.

8. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Date: 01.05.2015

Nsr

