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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1457 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 to A.5 in Crime No.211 of 2014 on the file of the Station House Officer, Kothur (M) Police Station, Mahabubnagar District, registered for the offence under Section 420 I.P.C.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

3. A perusal of the record reveals that the petitioners are accused Nos.1 to 5 and the second respondent is the *de facto* complainant in Crime No.211 of 2014.

4. As per the allegations made in the complaint, one M/s. Vasavimatha Builders and Developers Private Limited entered into an agreement with the second respondent on 12.12.2008 agreeing to sell a house plot admeasuring 100 Sq.yards in survey Nos.169/AA2 and 169/AA3 of Timmapur village, Kothur Mandal, Mahaboobnagar District, after obtaining permission from Statutory Bodies. The petitioner No.1 is Managing Director and petitioner Nos.2 to 5 are Directors of Vasavimatha Builders. It is further alleged that the petitioners made a false representation that they are going to construct 14 to 21 floors building in the said land and allot flats therein, collected an amount of Rs.1,50,000/- each from second respondent and 40 others. As requested by the petitioners, the second respondent has lent an amount of Rs.42,86,000/- to develop the site. The second respondent enquired and came to know that there is no development agreement in favour of the petitioners in respect of the site. The gist of the allegations made in the complaint is that the petitioners have

intentionally and willfully cheated the second respondent and others.

5. The contention of the learned counsel for the petitioners is that petitioner Nos.1 to 3 and 5 have nothing to do with

M/s.Vasavimatha Builders and Developers Private Limited.

6. Whether the petitioners have committed the alleged offence or not will come to light during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

7. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**^[1], **State of Haryana v. Bhajan Lal**^[2], **V.Y.Jose v. State of Gurajat**^[3] and **Teeja Devi v. State of Rajasthan**^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

9. The learned counsel for the petitioners submitted that concerned Station House Officer may be directed not to arrest petitioner Nos.1 to 3 and 5 till completion of the investigation.

10. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the Station House Officer, Kothur (M) Police Station, Mahabubnagar District, not to arrest

petitioner Nos.1 to 3 and 5/accused Nos.1 to 3 and 5 in Crime No.211 of 2014 till completion of the investigation.

11. With the above direction, the Criminal Petition is dismissed.

12. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 09.02.2016

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[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604

[\[3\]](#) (2009) 3 SCC 78

[\[4\]](#) 2015 (1) ACR 564 (SC)