

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.6616 OF 2011

ORDER:

1. This petition under Section 482 Cr.P.C. is filed by petitioners/Accused Nos. 1 and 2 seeking to quash Crime (FIR) No. 106 of 2011 on the file of Station House Officer, Police Station, Venkatagiri of SPSR Nellore District.

2. The contention of the petitioners is that they are innocent and not committed any offence much less the alleged offence and that the complaint is purely civil in nature. The first petitioner got issued legal notice to the second respondent on 16.08.2010 categorically stating that the second respondent miserably failed to pay the balance sale consideration within the stipulated time as agreed and thereby the advance amount of Rs.10,00,000/-paid by him stands forfeited and the agreement of sale dated 25.01.2010 executed by them in his favour with regard to schedule property stands cancelled. Suppressing this facts, the second respondent herein filed the complaint with vague allegations and ulterior motive and thereby abused the process of Court. It is further contended that the petitioners are subjected to unnecessary and unwarranted physical and mental torture basing on the frivolous and false complaint lodged against them.

3. Per contra, learned Additional Public Prosecutor contended that there is specific overt act attributed against the petitioners and though the second respondent is ready to pay balance sale consideration pursuant to the sale agreement dated 25.01.2010, the petitioners/accused with an intention to cheat the second respondent executed the agreement of sale and they did not turn up to register the sale deed.

4. A perusal of the record goes to reveal that the second respondent entered into an agreement of sale with the petitioners on 25.01.2010 to purchase an extent of Ac.2.24 cents comprised in Sy.No.91/1 of Chevireddy revenue village of Venkatagiry Municipality, for total consideration of Rs.67,50,000/- and paid Rs.10,00,000/- as advance and agreed to pay remaining balance sale consideration within five months i.e. on or before 25.06.2010 with default clause that in case of failure to pay the balance sale consideration, the advance amount of Rs.10,00,000/- stands forfeited and the agreement of sale stands cancelled. It is also the case of the second respondent/complainant that while entering into the agreement of sale, one more condition was agreed to, that the petitioners/accused shall conduct survey of the subject land before registering the same in his favour and to that effect, he (R.2) had paid Rs.250/- under challan No.2794 dt 23.08.2010. When the petitioners/accused did not turn up for conducting survey or register the land, the second

respondent/complainant filed Caveat No.18 of 2011 before the District Court for redressal. On 11.03.2011 the second respondent expressed his readiness and willingness to pay the balance sale consideration and requested the petitioners/accused to register the subject land in his favour. However, they did not turn up. While so, the first petitioner/A.1 got issued legal notice dated 16.08.2011 stating that as the second respondent miserably failed to pay the balance sale consideration within the stipulated time, the advance amount paid by him stands forfeited and the agreement of sale dated 25.01.2010 stands cancelled.

5. Thus it revealed that there is specific overt act attributed against the petitioners/accused in the petition that on 11.3.2011 the second respondent went to the house of petitioners at about 10.00 am and demanded the petitioners to register the subject land in his favour and questioned their fraudulent attitude in not coming forward to comply the agreement of sale dated 25.01.2010. There is further allegation that though the second respondent is ready and willing to pay the balance sale consideration as agreed to, the petitioners did not come forward to execute the sale deed. Further there is specific allegation against the petitioners that the petitioners fraudulently and dishonestly deceived the complainant and caused huge loss to him.

6. In the light of the above, there is nothing goes to suggest in the Criminal Petition that the second respondent

abused the process of Court and caused any prejudice to the petitioners.

7. Finding no merit in the Criminal Petition, the same is dismissed accordingly. Consequently, interim stay granted by this Court on 04.08.2011 in CrI.M.P.No. 6791 of 2011 stands vacated.

8. Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

DATED 6TH FEBRUARY, 2018.
Msnr_x

JUSTICE N. BALAYOGI

