

06-02-2017

1. That, the Police Inspector of Central Crime Branch (F and M Squad), N.T.Pet, Bengaluru, has filed the Final report against the accused no.1 and 2 for the offence punishable under section 420 r/w section 34 of the Indian Penal Code and under section 192(A)(5) of the Karnataka Land Revenue Act.

2. That, the allegation of the prosecution is that both the accused with their common intention to make wrongful gain and to cheat the public in large have illegally opened the offices in the name and style of M/s Aishwarya Project and Presidency Group at No.717, Purnashashi Complex, 2nd floor, Modi Hospital road, West of Chord

road, Basaveshwarnagar, Bengaluru 79, Skanda, no.895/1, 14th cross, Mahalakshmi layout, Bengaluru and no.604, Vaishnavi Paradise, Sangam Circle, 8th block, Jayanagar, Bengaluru and made CWs1 to 32 to believe that they are forming the residential layouts in non-agricultural lands in surrounding areas of Mysuru District and Taluk, Ramanagara Taluk and District, Chikkballapur Taluk and District and Bengaluru Taluk and District. It is further allegation of the prosecution that, CWs1 to 32 believing the words of accused no.1 and 2 have deposited the amount towards the sites and for which the accused no.1 and 2 have issued receipts and in all have collected from them sum of Rs.1,62,70,500/- but, thereafter have failed to convert the said agricultural lands into non-agricultural lands and have also failed to provide the sites as assured by them to the investors and have also failed to return their amount.

3. It is pertinent to note here that, the Learned counsel for accused no.1 and 2 has vehemently canvassed the arguments that the accused have not committed any offence as alleged by the prosecution. That, the Learned counsel for the accused has submitted before the Court the G.O's dated:-14.06.2006 and

20.03.2007 and submitted as the Government has refused to consider the proposals for conversion of agricultural lands into non-agricultural lands till the conclusion of Interim Master Plan in the areas of Anekal, Hoskote, Kanakapura, Magadi and Nelamangala, the accused have failed to seek the permission of the concerned authorities to convert the agricultural lands into non-agricultural lands.

4. That, the Learned Counsel for the accused has placed his reliance on following decision.

International Advanced Research Centre For Powder Metallurgy And New Materials(ARCI) And Others –vs- Nimra Cerglass Technics Private Limited and Another, reported in (2016) 1 Supreme Court Cases 348, wherein it has held that in order to bring a case for offence of cheating, it is not merely sufficient to prove that a false representation was made, but, it is further necessary to prove that the representation was false to the knowledge of accused and was made in order to deceive complainant.

(That, the accused have submitted the said G.O's and citation in C.C.NO.5473/2012).

5. It is pertinent to note here that, the prosecution has vehemently canvassed the arguments that from entire records it prima facie appears that the accused have committed the alleged offences and the truth will come out at the time of trial only.

6. It is pertinent to note here that, I have heard the arguments and perused the materials placed on record.

7. It is to be noted here that, on perusal of records it appears that there are sufficient grounds for framing the charge against the accused no.1 and 2 for alleged offences and whether they have committed the alleged offences or not the truth will come out in the trial.

For charge by 27-02-2017.

(Hema Pastapur)
I Addl. C. M. M, Bengaluru.

C.C.No.10101/2012