

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Crl.R.C.Nos.1283 & 1284 of 2014
and
M.P.Nos.1+1 and 2+2 of 2014

C.R.Balamurugan .. Petitioner in both Crl.R.Cs./Sole Accused

Vs

S.Ravanan .. Respondent in both Crl.R.Cs./Complainant

Criminal Revisions filed under sections 397(i) and 401(i) of Criminal Procedure Code to call for the records and set aside the order passed in C.M.P.Nos.6258 and 6257 of 2014 respectively, in C.C.No.150/2013 and C.C.No.149/2013 dated 07.10.2014 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner in both cases : Mr.B.Vasudevan

O R D E R

Two Criminal Revision Cases have been filed against the orders passed on the petitions Viz., CMP No.6257 & 6258 of 2014 dated 07.10.2014, filed under Section 219(1) Cr.P.C., to try the complaint in CC.Nos.149 and 150 of 2013 on the file of Judicial Magistrate No.III, Salem. After hearing the submissions, the Court below vide order dated 07.10.2014 in CMP No.6257 & 6258 of 2014, has passed the following orders:

Petition filed u/s. 219(1) Cr.P.C. to try the complaint in CC No.149 of 2013 along with this case, and to the charged together and tried at one and the same trial.

Even though the case is taken on file as calender case, only summary procedure is followed. No charge is framed and only the Accusation against the accused is explained to the Accused & Questioned. However in both the cases, accusation against the accused is explained and questioned on 02.08.2013. Both the cases are posted for Defense side evidence. Mean time this accused have filed an application to recall the evidence of PW1 and the cases are posted for cross examination of PW1. Since the accusation were explained already, at this stage charging together would not

arise. This Court is of view that, at this stage, this application could not be entertained. However both the cases are adjourned simultaneously on same hearings. As such this Court is of view that much prejudice would not be caused the Accused.

Since the cases are tried summarily, no chance for clubbing the charges. Since accusation were already explained, the case is at the fag end of the trial. As such no inclined to entertain the application.

Petition rejected."

2. Mr.B.Vasudevan, learned counsel for the revision petitioner assailed the correctness of the orders, on the following grounds.

A. The dismissal order passed by the Lower Court is against law and on facts.

B. The Lower Court ought to have allowed the petitioner in CMP No.6258 of 2014.

C. The Lower Court has failed to note that the complainant issued lawyer notice dt. 19.04.2013 in respect of four post dated cheques bearing Nos.968091, 968083, 000848, 968090. The cheques amount were not mentioned in the four cheques. The Complainant ought to have filed a single complaint in respect of single notice in respect of dishonor of 4 post dated cheques. But the Complainant filed two separate complaints base don single notice. The Complainant filed complaint in C.C.No.149 of 2013 in respect of 2 post dated cheques bearing No.968091 and 968083 dated 19.1.2013 and 20.01.2013 each for Rs.40,000/- and Rs.30,000/- drawn on ICICI Bank Limited, Shevapet Branch, Salem. The Complainant filed complaint in C.C.No.150 of 2013 in respect of 2 post dated cheques bearing No.968090 and 000848 dated 21.1.2013 and 20.01.2013 each for Rs.30,000/- and Rs.50,000/- drawn on ICICI Bank Limited. Shevapet Branch, Salem. The two complaints based on single notice, the evidence in both cases are same, further the cross examination in respect of both are same, the exhibits marked in both cases are also same. So both the complaint in C.C.No.149/2013 and complaint in C.C.No.150/2013 are to be tried together.

3. Upon considering the material on record and the grounds of challenge, this Court is not inclined to entertain the revision petitions. The reasons assigned by the Court below cannot be said to be contrary to law. Both the cases have been adjourned on the same day and as rightly observed no prejudice would be caused to the accused. When both the cases were posted for defence evidence, the

accused have filed application for recalling the evidence, and that the cases are posted for cross examination of PW2. As cases are to be tried summarily, at the fag end of the trial, there is no need to club both the cases and tried together.

3. For the reasons stated supra, both Revision Cases are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar()

Dt: 20/1/2015

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Sub-Assitant Registrar

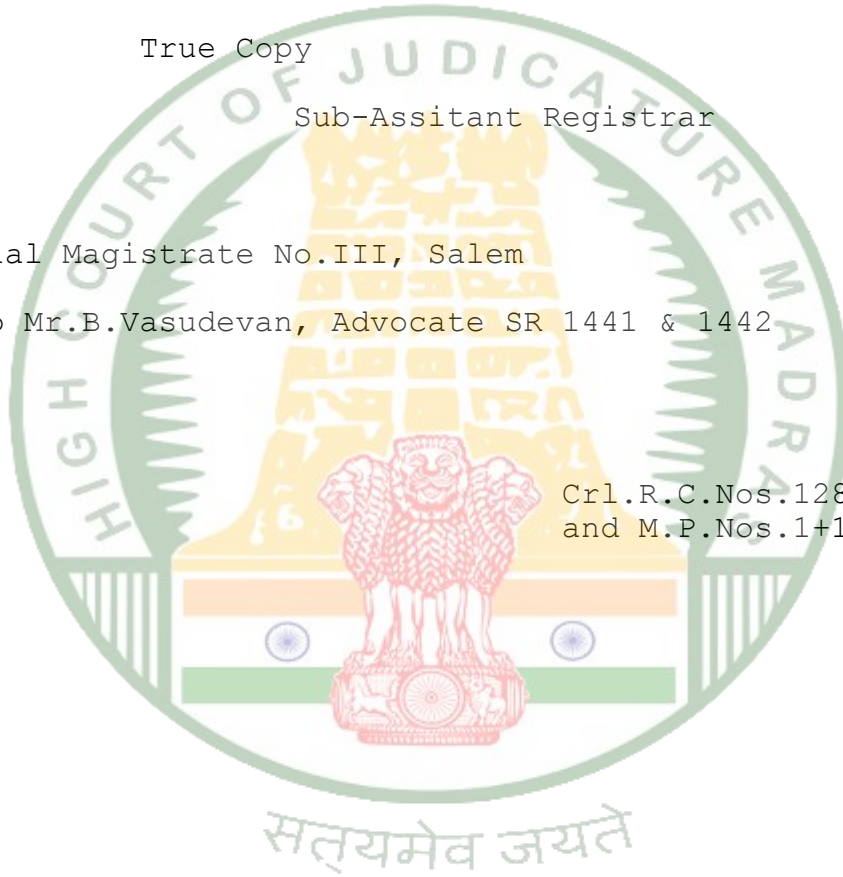
To

The Judicial Magistrate No.III, Salem

+ 2 ccs to Mr.B.Vasudevan, Advocate SR 1441 & 1442

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