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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-18114-2015
Date of Decision:- November 21, 2017

VikasPetitioner

Versus

Smt. KavitaRespondent

2. CRM-M-18594-2015

VikasPetitioner

Versus

Smt. KavitaRespondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Sanjay Verma, Advocate,
for the petitioner .

Mr. A.K.Rana, Advocate
for the respondent.

SHEKHER DHAWAN, J.

The above titled two petitions are being disposed of by this common order as the issue involved *inter se* parties is the same.

2. By filing the above mentioned two petitions under Section 482 of Code of Criminal Procedure [for short, "the Code"] Vikas, petitioner herein is seeking quashing of impugned order, dated 6.4.2015 (Annexure P/4), passed by learned Judicial Magistrate Ist Class, Gurgaon whereby application for amendment filed by the respondent, was wrongly allowed in a complaint case.

3. Facts relevant for the purpose of decision of these petitions;

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that complaints under Section 138 and 142 of Negotiable Instruments Act, 1881 (for short, "the Act) were instituted and dealt with on the same dates. As per list of documents attached with the complaints, cheque numbers were given to be 145832 and 145833 and both the Complaints arise out of the same transaction. Incidentally, the amount of both the cheques is also the same i.e., Rs.1,95,000/-.

4. Learned counsel for the petitioner, while assailing the impugned order, contended that as per provisions of the Code, Judicial Magistrate has got no inherent power to allow amendment of complaint, but the impugned order, dated 6.4.2015, has been passed while ignoring all these facts and the impugned order is liable to be set-aside.

5. Learned counsel for the respondent, while controverting the arguments of learned counsel for the petitioner, submitted that in fact, it was not a case of amendment of the complaints, as is evident from the impugned order itself and in fact, cheque involved in one complaint was attached with the other complaint and both the complaints were instituted and adjourned for the same dates by the same Court. In that process, because of handling of the files, the cheque of one complaint was attached with the other complaint and the same has been ordered to be placed in the correct file as per the impugned order and that was rightly allowed by the Court below. There is no ground to set-aside the impugned order.

6. Having considered the above facts that both complaints are under Section 138 of the Act and the amount involved in both the cheques is Rs.1,95,000/-. both the complaints were instituted on the same date and were adjourned for the same dates; and in that process, the cheque

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involved in one complaint might be attached with the complaint case of other file and this aspect was duly taken care of by learned Judicial Magistrate for advancement of justice. Learned trial Judge has rightly observed that the concept of law is not to prejudice but render justice on merits. Moreover, no prejudice would be caused to the other party as the same does not effect the merits of the case in any manner.

7. In view of the above, it is not a case of amendment of complaint at all, rather the mistake which had taken place at the time of handling the files was rightly ordered to be corrected by the learned Magistrate and there is no illegality in the order under challenge. Resultantly, the present petitions are without any merit and same stand dismissed.

November 21, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes