

S.No.123

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-36223 of 2018 (O&M)

Date of Decision:23.08.2018

Sourav Enterprises and anotherPetitioners

Vs.

M/s Sainik Textile Mills Pvt. Ltd.Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sahil Khunger, Advocate
for the petitioners.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed for quashing of the order dated 23.08.2018 passed by Judicial Magistrate, Malerkotla whereby application under Section 219 Cr.P.C, for clubbing of all the complaints filed against the petitioners under Section 138 of Negotiable Instruments Act.

It is contended by counsel for the petitioners that although seven different cheques are claimed to have been issued by the petitioners and the same were dishonored on the different dates, however, the basic amount for re-payment of which these cheques are alleged to have been issued; is the same in all the cases, i.e. Rs.29,28,471/-. Therefore, it is contended that the offences being of similar nature, all these trials should be clubbed together. The Magistrate has wrongly rejected the application filed by the petitioners.

Having heard the counsel for the petitioners and perused the record, this Court does not find any substance in the argument of the learned counsel for the petitioners. The application was filed by the petitioners under Section 219 of Cr.P.C. However, a bare reading of Section 219

Cr.P.C shows that it is the discretion of the Court, if deemed fit, to frame the charge qua offences committed within a span of one year; in one case only. Even this discretion of the trial Court is limited to not more than three offences. In the present case, the trial Court has never deemed it appropriate to club the allegations against the petitioners and try them in one trial only. The petitioners had already been charge-sheeted; separately; in six trials. Therefore, the applicability of Section 219 Cr.P.C, per-se, is excluded.

A perusal of the order of the Magistrate shows that the trials of the petitioners have already reached near conclusion. In all the cases, the evidence of the prosecution is already complete. The statement under Section 313 Cr.P.C has already been recorded. The case is now fixed for defence evidence. Therefore, there is no scope left for merging the trials into one trial, as has been sought by the petitioners by taking recourse to Section 219 Cr.P.C.

Otherwise also, the order shows that the Courts below have been conscious of the fact that the petitioners are facing six different trials for issuing cheques for repayment of the same amount; in parts. Therefore, all the trials are being conducted by the Courts below by fixing the same date in all the cases. This has taken care of the inconvenience to the petitioners; if any, which could have arisen due to separate trials. Besides, this Court does not find that the petitioners have been prejudiced in any manner by conducting the trials separately. In any case, if at all the petitioners so intended, the application for clubbing of charges/trials should

have been moved before start of the trial.

Finding no merit in the present petition, the same is hereby dismissed.

August 23, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No