

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.1972 of 2012
and
M.P.Nos.1 and 2 of 2012

Gunasekaran

... Petitioner

Vs.

1.The Inspector of Police,
S-11, Tambaram Police Station,
Tambaram, Chennai - 600 045.
(Crime No.245/2011)

2.Edwin Christopher

... Respondents

PRAYER: Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.1051 of 2011 pending on the file of the learned Judicial Magistrate, Tambaram and quash the same.

For Petitioner : Mr.R.Ganesh Kumar

For Respondents: Mr.C.Iyyapparaj,
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking to call for the records in C.C.1051 of 2011 pending on the file of the learned Judicial Magistrate, Tambaram and quash the same.

2. The learned counsel for the petitioner would submit that for the very same incident of theft of cheques, two complaints were filed. One by the 2nd respondent in Crime No.245 of 2011 before the 1st respondent and the other one by the father of the 2nd respondent in Crime No.71 of 2010 before the CCB, Suburban Chennai. The complaint in the Crime No.71 of 2010 was earlier referred as mistake of fact and later on investigation of the courts further investigation is pending. Whereas, in the complaint in Crime No.245 of 2011, the investigation was completed and charge sheet has been filed in C.C.No.1051 of 2011 and the case is pending before the trial court. He would

further submit that this court may issue direction to the trial court to conduct joint trial of both the matters. He would also submit that there is no material available to implicate the accused and it is only on mere allegation, the Law Enforcing Agency had filed charge sheet. The learned counsel for the petitioner would further submit that the petitioner had filed a private complaint in C.C.No.99 of 2010 on the file of the learned Judicial Magistrate-I, Vellore in respect of one of the very same alleged stolen cheques under 138 of Negotiable Instruments Act.

3. Considering the facts and circumstances of the case, and considering the fact that the petitioner has filed a case under Section 138 of Negotiable Instruments Act and the same is pending, however the 2nd respondent and his father have filed separate complaints before the Law Enforcing Agency as if the petitioner had committed theft of cheques and thereafter presented the cheques for encashing and the same was dishonoured, due to which he had filed a complaint, this court is of the view that it is a triable issue and the petitioner shall canvas his points before the trial court.

4. In view of the fact that for the very same incident two separate complaints have been filed, this court directs the trial court to club both the cases together and conduct joint trial as per Section 220 of the Code of Criminal Procedure.

5. The learned counsel appearing for the petitioner would submit that the appearance of the petitioner before the trial Court may be dispensed with and would further submit that the petitioner is ready to appear as and when necessary arise.

6. The learned counsel appearing for the first respondent concede to the request made by the learned counsel appearing for the petitioner.

7. In view of the above, this Court directs the learned Judicial Magistrate, Tambaram, to expedite the trial in C.C.No.1051 of 2011 and complete the same as early as possible. The appearance of the petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the petitioner for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary. The Trial Court is also directed to club both the cases in Crime Nos.71 of 2010 and 245 of 2011 together and conduct joint trial.

8.With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa

To

1.The learned Judicial Magistrate,
Tambaram.

2.The Inspector of Police,
S-11, Tambaram Police Station,
Tambaram,
Chennai - 600 045.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.R.Ganesh Kumar, Advocate, S.R.No. 106526

RSV(CO)
GN(29/01/2020)

Cr1.O.P.No.1972 of 2012

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