

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.22149, 22131 & 22132 of 2013
and
MP.Nos.1,1 & 1 of 2013

S.Krishna KumariPetitioner/A3 in all Crl.OPs
Vs.

1.A.S.Sandeep
2.K.B.RajuRespondents 1&2/Complainants
in all Crl.OPs

3.M/s.Koushic Pressure Vessels Pvt. Ltd,
Rep. by its Managing Director,
1/150, SLRS Hospital Road,
Kandipedu Village, vellore District-116.

4.K.Sreenivasan
Director of
M/s.Koushic Pressure Vessels
Pvt. Ltd, 2/269,Ganga Street
IAS-IPS Colony,
Manappakkam, Chennai-116.
.... Respondents 3 & 4/A1 and A2 in all Crl.OPs

Common Prayer: Petitions filed under Section 482 of Cr.P.C.,
seeking to call for the records in C.C.No.2402, 2401 & 2403 of
2013 on the file of the XVII Metropolitan Magistrate Saidapet,
Chennai (now transferred to Fast Track Court No.III, Saidapet,
Chennai 15) and quash proceedings therein in so far as the
petitioner herein is concerned.

In all Crl.OPs
For Petitioner : M/S.M.Rajan

COMMON ORDER

These criminal original petitions have been filed under
Section 482 of Cr.P.C., by the petitioner who was arrayed as
A3, in C.C.No.2402, 2401 & 2403 of 2013 on the file of the
learned XVII Metropolitan Magistrate Saidapet, Chennai (now
transferred to Fast Track Court No.III, Saidapet, Chennai 15)
seeking to quash the proceedings by allowing these petitions.

2.The Complainants /Respondents are one and the same in the two different complaints. The defacto complainant filed a private complaint under Section 138 of the Negotiable Instruments Act, against the petitioner, since the defacto complainant and petitioner are one and the same.

3.The case of the respondent is that the petitioners issued various cheques in the year 2011 and the said cheques were dishonored. Thereafter, legal notice was issued by the complainant and since the amount was not paid, he filed a complaint under Section 138 of Negotiable Instruments Act. Challenging the said complaints, the present petitions have been filed.

4.Mr. M.Rajan, learned counsel appearing for the petitioner submitted that though the defacto complainant and respondents 1 & 2 are one and the same in the three private complaints, however, the present, challenge before this Court is on the following grounds.

(i) There are two complainants in the complaint which is not permissible under Section 200 of Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act and

(ii) No cheques were issued by the two persons, but the cheques were issued only by one person and hence filing of the complaint by the two persons under Section 138 of Negotiable Instruments Act, is unsustainable one and the said issue has already been considered by this Court.

5. Learned counsel for the petitioner relied upon the decision of this Court reported in (2011) 4 MLJ (Cr1) 198 [Maheswari & Others V. Jayanthi & another] wherein it is held that if there are more than one complaint, it will be difficult for the Magistrate to form an opinion for taking cognizance of an offence. This applies to the power of attorney of two complaints also. Therefore, the joint complaint given by two persons is not maintainable and liable to be quashed and the said ratio was followed in yet another judgment of this Court in Cr1.OP.NO.9919 of 2019 [T.Ravi vs. T.Kamakshi and one another]. Accordingly, he prays to allow these petitions.

6.Notice was ordered however no one appeared on behalf of respondents 1 & 2, hence this Court ordered Paper Publication and the names of respondents 1 and 2 were also printed in the cause list. Even then there is no appearance on behalf of the respondents 1 and 2 and hence left with, no other option this Court proceeds to decide the case on merits based on the available records.

7. A perusal of the decisions cited by the learned counsel for the petitioner, it is evident that multiple complaints are per se impermissible in case of the same

transaction. However, the materials available on record reveal that three complaints have been filed by the defacto complainant in C.C. Nos.21402, 2401 and 3403 of 2013 with regard to the very same offence. The above act of the defacto complainant is diametrically against the ratio laid down by this Court in the decisions cited supra. In the absence of the respondents 1 and 2/defacto complainants appearing to defend their case inspite of very many opportunities granted by this Court, this court is of the considered view that not only the respondents are not inclined to defend their case, but equally, the case being squarely covered by the decisions aforesaid, this Court is of the considered view that the prayer for quashment as made by the petitioner deserves to be allowed.

8. Accordingly these criminal original petitions stand allowed and the proceedings in C.C.No.2402, 2401 & 2403 of 2013 on the file of the learned XVII Metropolitan Magistrate Saidapet, Chennai (now transferred to Fast Track Court No.III, Saidapet, Chennai 15) are quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III-MDU)

//True Copy//

Sub Assistant Registrar

jrs

To

The XVII Metropolitan Magistrate, Saidapet,
Chennai (now transferred to Fast
Track Court No.III, Saidapet, Chennai 15)

+1cc to Mr.M.Rajan, Advocate SR.15158

Crl.O.P.Nos.22149, 22131 & 22132 of 2013
and

MP.Nos.1,1 & 1 of 2013

VGI (CO)
CB(18/06/2020)

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