

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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CRM-M-39180-2019 (O & M)

Date of decision: 13.03.2020

Vishal

.....Petitioner

Versus

Ram Prasad and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Tarundeep Kumar, Advocate
for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Section 407 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') read with Section 482 of the Cr.P.C. seeking quashing of order dated 17.07.2019 passed by learned Sessions Judge, Jind whereby application for transfer/clubbing of complaint case No. NACT/261/2017 titled as Ram Parshad Vs. Vishal under Sections 138 and 142 of the Negotiable Instruments Act (for short 'the N.I. Act') pending in the Court of Judicial Magistrate First Class, Narwana and complaint case No. NACT/262/2017 titled as Kamal Singh Singhmar Vs. Vishal under Sections 138 and 142 of the N.I. Act pending in the Court of Sub Divisional Judicial Magistrate, Narwana was dismissed.

The petition has been filed on the grounds that respondent No. 1 is an Advocate and respondent No. 2 is his Clerk. The petitioner is alleged to have taken loan from respondents No. 1 and 2 and to have issued two cheques to them for payment of the loan amount. Both the complaint cases filed on dishonour of the above said cheques are inter connected due to having arisen out of the same transaction. The

application for transfer/clubbing of the same has been wrongly dismissed by the learned Sessions Judge.

Notice of the petition was given to the respondents. Mr. Subhash Rana, Advocate has appeared on behalf of respondents and filed his power of attorney which is taken on record.

Since, the complaints have been filed by different persons although against the same accused the same cannot be clubbed together for recording of evidence in one case and disposal by common judgment.

In the course of hearing on the petitioner, learned Counsel for the petitioner has also given up his prayer for clubbing of above said complaints.

Learned Counsel for respondents has no objection if both the complaints are tried by the same Court.

Even otherwise both the complaint cases are claimed to have arisen out of the same transaction having common facts and witnesses which warrants that the same be tried simultaneously by one Court to avoid conflicting judgments and no prejudice would be thereby caused to any of the parties. When viewed in this context, the impugned order suffers from material illegality in this regard.

In view of the above, the petition is partly allowed to the extent that complaint case No. NACT/261/2017 titled as Ram Parshad Vs. Vishal under Sections 138 and 142 of the N.I. Act pending in the Court of Judicial Magistrate First Class, Narwana is transferred to the Court of Sub Divisional Judicial Magistrate, Narwana where complaint case No. NACT/262/2017 titled as Kamal Singh Singhmar Vs. Vishal

under Sections 138 and 142 of the N.I. Act is pending and both the complaint cases shall be tried and disposed of by Sub Divisional Judicial Magistrate, Narwana, simultaneously.

A copy of this order be sent to learned District and Sessions Judge, Jind and the Courts concerned for requisite compliance.

13.03.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No