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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18103 of 2023
and Crl.O.P.Nos.11981 & 11984 of 2023

N.Pannerselvam

.. Petitioner

Vs.

G.Prabakaran

..Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order datd 30.06.2023 passed in Crl.M.P.No.18 of 2023 in STC No.8137 of 2021 on the file of Judicial Magistrate No.III, Salem and allow the above Criminal Original Petition.

For Petitioner

: Ms.D.Jeevitha

ORDER

This petition has been filed challenging the order passed by the Court below in Crl.M.P.No.18 of 2023 dated 30.06.2023, wherein the petitioner had sought for joint trial in STC No.8137 of 2021 and STC No.5837 of 2020.



2.The respondent filed two complaints against the petitioner in STC No.5837 of 2020 and STC No.8137 of 2021. The transaction in both the complaints are different and the cheque that was issued was also independently issued towards each transaction. Both the complaints were pending before the same Court.

3.The petitioner/accused filed an application before the Court below requesting the Court below to conduct a joint trial in STC No.5837 of 2020 and STC No.8137 of 2021. The Court below dismissed the application by an order dated 30.06.2023. Aggrieved by the same, the present criminal original petition has been filed before this Court.

4.Heard the learned counsel for the petitioner and carefully perused the materials available on record.

5.The learned counsel for the petitioner relied upon Section 219 of Cr.P.C., and also the judgment of this Court in ***Manjula and Colgate Palmolive (India) Limited, rep. by its authorised signatory, T.Harikumar*** reported in ***2006 (5) CTC***



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303 and submitted that the reasoning given by the Court below to dismiss the application is unsustainable and it requires the interference of this Court.

6. In the instant case, there are two independent transactions and cheque is alleged to have been issued independently towards those two transactions. Accordingly, two independent complaints were filed by the respondent.

7. The learned counsel for the petitioner was relying upon Section 219 of Cr.P.C., to substantiate her contention that three offences of the same kind committed within a span of one year can be charged together. This provision is an exception to Section 218 of Cr.P.C. In any case, this provision pertains to a warrant case where charges are framed. It does not strictly apply to a summons case where a separate procedure is contemplated under Chapter XX of Cr.P.C.

8. The judgment that was relied upon by the learned counsel for the petitioner will also not apply to the facts of the present case. The facts of the case in the judgment that was relied upon, shows that a single complaint was filed and the complaint covered multiple cheques. A stand was taken in that case to the



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effect that a single complaint cannot be filed for multiple cheques and separate complaints must be filed. The Division Bench of this Court by taking cue from Section 219 of Cr.P.C., came to a conclusion that multiple cheques can also form part of a single complaint where those cheques have been issued in the course of the same transaction. In the instant case, there are two independent transactions and two independent cheques were issued and hence, the judgment that was relied upon will not apply to this case.

9.The Court below has rightly held that a joint trial cannot be conducted and at the best, only a simultaneous trial can be conducted. This observation made by the Court below will sufficiently take care of the interest of the petitioner, since the complaints are going to be dealt with one after the other by the same Court and hence, the defense taken by the petitioner can be effectively put forth in such a simultaneous trial. The order passed by the Court below does not suffer from any illegality or infirmity and it does not require the interference of this Court.



10. In the result, this criminal original petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

10.08.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

ssr

To

1. The Judicial Magistrate No.III, Salem.

2. The Public Prosecutor

High Court of Madras, Madras.



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N.ANAND VENKATESH, J

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