



CrI.RC Nos.2113 of 2024 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.Nos.2113, 2123, 2125, 2126, 2127, 2128,
2129, 2131, 2162 and 2167 of 2024 (10 cases)

and

CrI.M.P.Nos.16831, 16849, 16853, 16856, 16858, 16865, 17030,
17088, 16832, 16850, 16855, 16857, 16859, 16860, 16861,
16866, 16891, 16897, 17031 and 17090 of 2024

P.Anantham

... Petitioner / A1

in all cases

Vs.

State Rep. by

The Inspector of Police,

Commercial Crime Investigation Wing,

Tiruvarur.

(Cr.No.1 of 2004)

... Respondent/Complainant

in all cases

PRAYER in CrI.R.C.No.2113 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1928 of 2024 in CC No.325 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in CrI.R.C.No.2123 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to



set aside the order dated 23.10.2024 made in CMP No.1933 of 2024 in CC No.330 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2127 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1929 of 2024 in CC No.326 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2131 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1929 of 2024 in CC No.320 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2125 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1922 of 2024 in CC No.318 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2126 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1926 of 2024 in CC No.323 of 2009 on the file of the learned Judicial Magistrate,



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Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

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PRAYER in Crl.R.C.No.2128 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1927 of 2024 in CC No.324 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2129 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1932 of 2024 in CC No.329 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2162 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1930 of 2024 in CC No.327 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

PRAYER in Crl.R.C.No.2167 of 2024: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C. (438 r/w 442 of BNSS Act), to set aside the order dated 23.10.2024 made in CMP No.1931 of 2024 in CC No.328 of 2009 on the file of the learned Judicial Magistrate, Thiruthuraipoondi and conduct joint trial along with CC.No.317 of 2009.

For Petitioner : Mr.T.Muruganantham
in all cases



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For Respondent : Mr.S.Udaya Kumar
in all cases Government Advocate (Crl.Side)

COMMON ORDER

All these Criminal Revision Cases challenge the dismissal of the petitioner's applications filed under Sections 220 and 223 of Cr.P.C., for a joint trial of about 11 cases.

2. It is the case of the prosecution that the petitioner/A6 is the Special Officer of the Co-operative Society; that he had issued cheques in collusion with A2 and A3 in the names of the members of the Society making it appear that a loan was sanctioned to them; that an account was opened in the name of the members without their knowledge and the cheques were deposited and thereafter the amounts lying in their accounts were misappropriated by the petitioner along with the other accused.

3. The respondent had filed 11 cases against the petitioner alleging that 11 loan amounts were disbursed in the above manner and the money was misappropriated by the petitioner.



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4. The petitioner filed a petition for joint trial on the ground that all the offences, even if the prosecution case is accepted to be true, were committed in the course of same transaction and therefore, the cases should be clubbed together and a joint trial should be held so that the witnesses are not examined separately.

5. The respondent opposed the said petition stating that though the offences are similar in nature, they were not committed in the course of same transaction and therefore, a joint trial, cannot be ordered.

6. The learned Magistrate dismissed the petition seeking joint trial on the ground that the case is pending from 2009; that the petition was filed belatedly; that in any case, the trial is conducted simultaneously and no prejudice would be caused to the petitioner and dismissed the said petition.

7. The learned counsel for the petitioner would submit that if the cases are tried separately, there would be a repetition of examination of



witnesses and it would be a waste of time and therefore, a joint trial would sub serve the interests of justice and prayed for setting aside the order of the learned Magistrate.

8. The learned Government Advocate would submit that all the cases are posted on the same day and tried simultaneously and hence, no prejudice is caused to the petitioner. A counter affidavit also has been filed to that effect.

9. Considered the rival submissions made by the learned counsel on either side and perused the materials available on record.

10. The case of the prosecution is that the petitioner in conspiracy with the other accused had opened accounts in the names of 11 members of the Society and made it appear that loan was sanctioned to them. After the cheque was realised, the petitioner withdrew the said sum and thereby misappropriated the funds of the co-operative society. Therefore, 11 cases were filed against the petitioner.

11. This Court is of the view that though the offences are similar,



they are separate and independent and therefore, the rule is that the case should be tried separately. The reason is not far to seek. The prosecution may be able to establish the allegation against the petitioner in some cases and may not be able to establish in certain other cases. If a joint trial is conducted, it will not only cause grave prejudice to the petitioner but also to the prosecution. However, considering the similarity of the offences, this Court is of the view that the trial Court shall conduct simultaneous trial and examine the witnesses in all the cases on the same day. The judgments also may be delivered on the same day in all the cases.

12. It is reported by the learned Government Advocate (Crl.Side) that after the impugned order was passed, all the cases have been transferred to the Chief Judicial Magistrate, Tiruvarur.

13. With the above observations, the Criminal Revision Cases stand dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

06.12.2024



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Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No.

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To

1. The Judicial Magistrate,
Thiruthuraipoondi.
2. The Chief Judicial Magistrate,
Tiruvarur.
3. The Inspector of Police,
Commercial Crime Investigation Wing,
Tiruvarur.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

ars

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