



2024:DHC:10039



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 07.10.2024
Pronounced on : 23.12.2024

+ **W.P.(CRL) 1393/2023 & CRL.M.A. 13072/2023**

DEEPAK CHAUDHARY

.....Petitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State with SI Vikrant
Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2

+ **W.P.(CRL) 1397/2023 & CRL.M.A. 13119/2023**

DEEPAK CHAUDHARY

.....Petitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State with SI Vikrant.
Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2

+ **W.P.(CRL) 1398/2023 & CRL.M.A. 13121/2023**

DEEPAK CHAUDHARY

.....Petitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.

.....Respondents



2024:DHC:10039



Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.
Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2

+ **W.P.(CRL) 1401/2023 & CRL.M.A. 13145/2023**

DEEPAK CHAUDHARYPetitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.

Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2

+ **W.P.(CRL) 1427/2023 & CRL.M.A. 13501/2023**

DEEPAK CHAUDHARYPetitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.

Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2

+ **W.P.(CRL) 1428/2023 & CRL.M.A. 13512/2023**

DEEPAK CHAUDHARYPetitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus



2024:DHC:10039



STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2+ **W.P.(CRL) 1433/2023 & CRL.M.A. 13539/2023**

DEEPAK CHAUDHARY

.....Petitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2+ **W.P.(CRL) 1434/2023 & CRL.M.A. 13541/2023**

DEEPAK CHAUDHARY

.....Petitioner

Through: Mr.Lalit Mohan Grover, Advocate

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Criminal)
for the State.Mr. Ravi Kant and Mr. Abhinav
Sharma, Advocates for respondent
No.2**CORAM:****HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****JUDGMENT**



1. By way of the present petitions, the petitioner seeks setting aside of the order dated 18.11.2022 passed by learned Presiding Officer, Special Court (N.I. Act), South East District, New Delhi and seeks directions to the Trial Court to conduct joint/one trial of the cases bearing CC No. 2281/2017, 2282/2017, 2283/2017, 2284/2017, 2285/2017, 2286/2017, 2287/2017 and 2288/2017 filed under Section 138 Negotiable Instruments Act (hereinafter referred to as the '*NI Act*').
2. Considering that the criminal complaints arise out of the same impugned order involving the same parties and since common arguments have been addressed from both the sides, the present matters are taken up for consideration together and disposed of vide this common judgment.
3. The facts necessary for adjudication of the present petitions are that as per the complaint, the accused persons were distributors of alcoholic beverages of the complainant/respondent No.2. The partnership firm, namely, *Jasbir Singh & Company*, was in a business relationship with the complainant/respondent No.2. During the course of business relationship, Jasbir Singh L-1 and Deepak Chaudhary L-1 placed certain orders for purchase of various goods and relying on the assurance to pay for the same, the goods were delivered. However, there came to be an outstanding amount of Rs. 78,58,007.23/- in the Tax invoice towards the payment of the goods supplied. In discharge of the debt towards payment of goods, the petitioner/*Deepak Chaudhary* being the authorized signatory, issued eight different cheques in favour of the complainant/respondent No.2. The details of which are as under:

WP(CRL) No.	Complaint Case Nos.	Cheque Nos.	Date	Amount	Bank
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1393/2023	2283/2017	708536	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1397/2023	2287/2017	708539	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1398/2023	2281/2017	708534	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1401/2023	2286/2017	708540	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1427/2023	2282/2017	708538	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1428/2023	2285/2017	708535	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1433/2023	2288/2017	708537	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce
1434/2023	2284/2017	708541	18-10-2016	Rs.3,00,000/-	Oriental Bank of Commerce

4. Upon presentment, the aforesaid cheques were dishonoured, resulting in respondent No.2 filing eight different complaints. A total of eight cases came to be registered against the petitioner. Subsequently, an application under Section 220 CrPC was moved by the petitioner seeking joint/one trial



of all the complaint cases. However, vide the impugned order dated 18.11.2022, the Court of the Presiding Officer, NI Act, rejected the petitioner's application, noting that said cases do not pertain to same transaction.

5. Learned counsel for the petitioners contends that the impugned orders have been passed without due consideration of the facts as well as the legal position. It is contended that since the eight complaint cases relate to the cheques issued w.r.t the same transaction and further considering that the evidences and witnesses in each of these cases would be the same, it would save precious judicial time if the cases are tried together. As such, it is stated that if joint/one trial of the cases does not take place, not only would it lead to multiplicity of proceedings but would also cause great prejudice to the petitioners. In this regard, reliance has also been placed on decisions of Co-ordinate Benches in the case of Unique Infoways Pvt. Ltd. And Others v. MPS Telecom Private Limited reported as **(201 9) SCC OnLine Del 7808**, Sharma Contracts (India) Pvt. Ltd. v. State & Anr reported as **2012 SCC OnLine Del 310**, and the decision of Punjab and Haryana High Court in the case of Ashutosh Humnabadkar, Director M/s. Digihome Solutions (P) Ltd and another v. Continental Device India Ltd. and Anr. reported as **2015 SCC OnLine P&H 2261**.

6. Learned counsel for the respondent No.2, on the other hand, has contested the present petitioner and has contended that the impugned orders have been passed in line with the established judicial principles. It is contended that the principles laid down in Sections 219, 220 Cr.P.C. are not applicable to the facts of the present case as dishonour of each cheque is a separate cause of action and hence the eight complaints cannot be



amalgamated. In support of his contention, he has relied upon the decisions of Supreme Court in Lalu Prasad alias Lalu Prasad Yadav v. State through CBI(A.H.D.) Ranch reported as reported as **2003 CrI.L.J. 4452** and Rajendra B. Choudhari v. State of Maharashtra reported as **2007 CrI.L.J. 844** . He further submits that as the matters are listed together as connected matters and are taken up together on the same dates there is no need to conduct a joint/one trial. Lastly, it is submitted that there is a strong likelihood of the complainant succeeding in all the matters. Hence, if joint/one trial is ordered, the complainant may suffer significant losses, as conviction would be recorded in only one matter.

7. I have heard the counsels of the parties and perused the material available on record.

8. The short controversy in the present case is that in case of dishonour of eight aforementioned cheques between the same parties, all eight complaints can be tried together or not.

9. While the NI Act does not contain any express provision for joint/one trial of complaint cases arising from distinct cheques, it would be apposite to refer to Sections 219 and 220 of the Cr.P.C. which read as under: -

“219. Three offences of the same kind within year may be charged together: (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law: xxx”



***“Section 220. Trial for more than one offence: (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.
xxx”***

10. The aforesaid provisions provide for joint/one trial of offences, which in terms of the general legal principle would have to be tried separately. While Section 219 Cr.P.C. has a restriction that a maximum of 3 offences of the same kind can be tried together, Section 220 does not expressly impose any such bar but simply states that offences must form part of the same transaction. It is well-established law that the dishonour of each cheque constitutes a distinct offence, giving rise to a separate cause of action. However, Sections 219 and 220 act as exceptions to the general rule requiring separate charges and trials for distinct offences. The primary objective of these exceptions is to ensure expediency and efficiency in legal proceedings while avoiding any prejudice to the parties involved.

11. The Supreme Court in Re: Expeditious Trial of Cases under Section 138 of N.I. Act 1881 reported as **2021 SCC OnLine SC 325**, w.r.t application of Section 219/220 Cr.P.C., observed as under:-

“SECTIONS 219 AND 220 OF THE CODE

13. Section 219 of the Code provides that when a person is accused of more offences than one, of the same kind, committed within a space of 12 months, he may be tried at one trial for a maximum of three such offences. If more than one offence is committed by the same person in one series of acts so committed together as to form the same transaction, he may be charged with and tried at one trial, according to Section 220. In his preliminary report, the learned Amici Curiae suggested that



a legislative amendment is required to Section 219 of the Code to avoid multiplicity of proceedings where cheques have been issued for one purpose. In so far as Section 220 of the Code is concerned, the learned Amici Curiae submitted that same/similar offences as part of the same transaction in one series of acts may be the subject matter of one trial. It was argued by the learned Amici Curiae that Section 220(1) of the Code is not controlled by Section 219 and even if the offences are more than three in respect of the same transaction, there can be a joint trial. Reliance was placed on a judgment of this Court in Balbir v. State of Haryana & Anr. to contend that all offences alleged to have been committed by the accused as a part of the same transaction can be tried together in one trial, even if those offences may have been committed as a part of a larger conspiracy.

14. The learned Amici Curiae pointed out that the judgment of this Court in Vani Agro Enterprises v. State of Gujarat & Ors. needs clarification. In Vani Agro (supra), this Court was dealing with the dishonour of four cheques which was the subject matter of four complaints. The question raised therein related to the consolidation of all the four cases. As only three cases can be tried together as per Section 219 of the Code, this Court directed the Trial Court to fix all the four cases on one date. The course adopted by this Court in Vani Agro (supra) is appropriate in view of the mandate of Section 219 of the Code. Hence, there is no need for any clarification, especially in view of the submission made by the learned Amici that Section 219 be amended suitably. We find force in the submission of the learned Amici Curiae that one trial for more than three offences of the same kind within the space of 12 months in respect of complaints under Section 138 can only be by an amendment. To reduce the burden on the docket of the criminal courts, we recommend that a provision be made in the Act to the effect that a person can be tried in one trial for offences of the same kind under Section 138 in the space of 12 months, notwithstanding the restriction in Section 219 of the Code.”



12. The aforesaid extract clearly states that in order to allow trial of more than 3 offences of the same kind to be conducted in a single trial, in terms of Section 219 Cr.P.C., an appropriate amendment would be required to be undertaken. However, the law as it stands today, allows for a maximum of 3 offences of the same kind to be tried together in a trial. In the present case, although the date of dishonour of the cheques were same, notably, eight distinct notices of demand were issued for each cheque and subsequently eight different complaints came to be filed.

13. In view of the above discussion and bearing in mind the mandate of Section 219 Cr.P.C. which restricts the trial of more than 3 cases of the same kind as well as the dicta of Supreme Court in Re: Expeditious Trial (Supra), this Court finds no ground to allow the prayer of the petitioner for joint/one trial of all eight complaint cases. The order passed by the Trial Court does not warrant interference.

14. At the same time, it is deemed apposite to direct that the Trial Court shall pass a suitable order, clubbing a maximum of three complaint cases of the same kind in accordance with Section 219 Cr.P.C and the Supreme Court's decision in Re: Expeditious Trial (Supra).

15. The petitions stand disposed of in the above terms.

16. A copy of this judgment be communicated to concerned Trial Court.

17. The judgment be uploaded on the website forthwith.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 23, 2024

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