

**(1987) 10 MAD CK 0030**

**In the Madras High Court**

**Case No : Criminal M.P. No. 9925 of 1987**

Peria Chelladurai and Chinna Chelladurai

APPELLANT

Vs

State

RESPONDENT

**Date of Decision : 19-10-1987**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 218, 218(1), 220, 220(1), 482  
Penal Code, 1860 (IPC) — Section 307, 427, 452, 459, 506(ii)

**Citation : (1987) LW(Cri) 497**

**Hon'ble Judges : Padmini Jesudurai, J**

**Bench : Single Bench**

**Advocate : V. Gopinath, for the Appellant; A.N. Rajan, (Govt.) Advocate, for the Respondent**

**Final Decision : Dismissed**

## Judgement

Padmini Jesudurai, J.—The petitioners who are accused in S.C. Nos. 34, 79, and 80 of 1987 pending before the Second Additional Assistant Sessions Judge, Coimbatore, for offences under Ss. 459, 307, 427 and 506(ii), I.P.C., invoke the inherent powers of this Court under S. 482, CrI.P.C., for setting aside the order passed by the Additional Assistant Sessions Judge, Coimbatore in CrI.M.P. No. 38 of 1987 splitting up the above cases.

2. Facts briefly are:-- On the night of 12th April, 1986, the petitioners are said to have been involved in 3 incidents. At about 12 midnight the petitioners are alleged to have trespassed into the premises of a tea factory and attempted to murder one Gnanamuthu. On a complaint by Gnanamuthu, a case in Crime No. 19 of 1986 was registered by the Kadamparai Police for offences under Ss. 307 and 427, I.P.C. In the course of the same transaction at 12:15 a.m. the accused are alleged to have trespassed into the premises of one Dakshinamurthy and committed mischief by damaging the glass window. A case in Crime No. 20 of 1986 was registered for offences under Ss. 427 and 506(ii) I.P.C. In the Course of the same transaction, at 1 a.m., the petitioners are alleged to have trespassed

into the house of Jayachandran and caused damages to the glass window and threatened witnesses. A case in Crime No. 21 of 1986 was registered by the same police for offences under Ss. 452, 427 and 506(ii) I.P.C. The police investigated into all the three crimes and since they found that the different incidents had taken place in the course of the same transaction, they filed a single charge sheet regarding the three incidents and the case was committed to the Court of Sessions, Coimbatore and numbered as S.C. No. 34 of 1987. The learned Sessions Judge, split up the above cases and numbered them as S.C. Nos. 34, 79 and 80 of 1987 and made them over to the Additional Assistant Sessions Judge for trial. The petitioners filed Crl.M.P. No. 38 of 1987 under S.218, Crl.P.C., requesting the court to club all the three cases together and try them as a single case. The learned Assistant Sessions Judge passed the impugned order, rejecting the prayer on the ground that the order was passed in Crl. M.P. No. 37 of 1987 only after hearing the counsel for the petitioners and directing clubbing of the above cases once again would result in delay. Aggrieved with the above order, the present petition is filed.

3. The Police, had filed a single charge sheet in the above incidents, on the ground that the offences had been committed in the course of the same transaction. According to S. 220, Crl. PC, there should have been a single trial, since all acts connected together so as to form the same transaction, making out different offences, could be charged and tried at one trial. S. 220 is an exception to S. 218(1), Crl.P.C., which requires that for every distinct offence of which any person is accused, there should be a separate charge and every charge should be tried separately. S. 218(1), Crl.P.C., contains a proviso that where the accused person by an application in writing so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person. Apart from S. 218, Crl.P.C., since the investigation had disclosed that all the offences had been committed in the course of the same transaction, there should have been a single trial under S. 220(1), Crl.P.C. Merely because, there would be delay or merely because, the counsel for the accused on an earlier occasion had agreed to the splitting up, separate trials need not be held. A joint trial would be in the interests, not only of the petitioners, but also, in the interests of the prosecution. In fact, the learned Public Prosecutor here, had no objection to the cases being clubbed together as a single case, since, according to him the police themselves had filed only a single charge sheet. Hence, the order passed by the learned Assistant Session Judge, Coimbatore in Crl.M.P. No. 38 of 1987 is set aside and S.C. Nos. 34, 79 and 80 of 1987 will be clubbed and tried as a single case.