

(2019) 03 DEL CK 0177

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4574, 4575, 5168, 5171 Of 2017,
Criminal Miscellaneous Application No. 18223, 18227, 20354, 20365
Of 2017

Steel Authority Of India Limited

APPELLANT

Vs

G K Lata & Ors

RESPONDENT

Date of Decision : 13-03-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 313

Citation : (2019) 03 DEL CK 0177

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : H.S.Phoolka, Alakh Kumar, Ajay Sharma, Rupali Sharma

Final Decision : Disposed Off

Judgement

In the above captioned first two petitions, petitioner's nineteen complaints under Section 138 of The Negotiable Instruments Act, 1881 have been segregated by the Revisional Court vide impugned order of 6th September, 2017 (Annexure P-4). The Revisional Court vide aforesaid order has directed that separate evidence be led by petitioner-Complainant in these complaint cases, whereas trial court vide order of 7th February, 2017 had relied upon its earlier order of 28th May, 2011 to conclude that the evidence led by petitioner in one complaint would be read in the connected complaints as well. It is apparent from trial court's order of 7th February, 2017 (Annexure P-3) that when these complaint cases had reached at the stage of recording of statement of respondents-accused, under Section 313 Cr.P.C then objection of recording of separate evidence in these nineteen complaint cases was raised. Trial court has observed that respondents-accused had acquiesced to get the evidence recorded in one case and the said evidence was to be read in other complaint cases as well. The Revisional court in the impugned order has observed that to ensure fair trial, petitioner-complainant has to lead separate evidence in these complaint cases.

In the above captioned third and fourth petition, challenge is to the trial court's order of 6th November, 2017, vide which petitioner's evidence has been closed after the matter was remanded by the Revisional Court for recording of separate evidence in the complaint cases.

With the consent of learned counsel for the parties, the above captioned four petitions have been heard together and are being disposed of by this common order.

Learned senior counsel for petitioner-complainant submits that trial court's order of 7th February, 2017 (Annexure P-3) is a reasoned order and the Revisional Court has erred in setting it aside while invoking the principle of fair trial. It is submitted by learned senior counsel for petitioner-complainant that respondents-accused themselves had filed an application before the trial court in the year 2001 seeking clubbing of the complaint cases. So, it is submitted that impugned order of Revisional Court deserves to be set aside and trial court's order be restored.

On the contrary, learned counsel for respondents-accused submits that the Authorized Representative of petitioner in one of the complaints is different and the parties in two complaints are also different and cheque amounts are also different and so, separate evidence ought to be recorded. Attention of this Court is drawn to paragraph No.10 of the impugned order to point out that complainant had filed evidence of its Authorized Representative in two complaints and the said evidence has not been even tendered in the remaining complaint cases and that there is no provision in The Negotiable Instruments Act, 1881 or Code of Criminal Procedure to permit clubbing of evidence in such complaint cases.

At this stage, learned senior counsel for petitioner-complainant submits that evidence was filed in all the complaint cases and its tendering is inconsequential. It is brought to the notice of this Court that the matter is now fixed for 18th March, 2019 before the trial court.

Upon hearing and on perusal of trial court's order, Revisional Court's order and the material on record, I find that respondents-accused way back in the year 2001 had filed an application for clubbing of these complaint cases. However, the said application remained undecided.

Be that as it may. Trial court vide impugned order of 28th May, 2011 had clarified that examination of petitioner/complainant's witness in one complaint case would be read in all connected nineteen complaints. No objection to it was taken by respondents-accused then. When the case reached at the stage of recording of statement of respondents-accused under Section 313 Cr.P.C., respondents-accused had sought recording of separate evidence in all nineteen complaints. Trial court has rightly observed that respondents-accused had acquiesced to recording of common evidence in all nineteen cases. The Revisional Court has erred in invoking the principle of fair trial by directing recording of separate evidence in these nineteen complaint cases, particularly when petitioner's

witness is same in eighteen complaints. In any case, this aspect does not assume importance for the reason that it is not the case of respondents-accused that they were misled in cross-examining petitioner's witness or that they were unaware the said evidence is being recorded in respect of nineteen complaints. In the considered opinion of this Court, the sole endeavor of respondents-accused is to delay the proceedings. Trial court's order of 28th May, 2011 (Annexure P-1) clearly reveals that no objection was raised by respondents-accused when trial court had made it clear that common evidence is to be led in all these nineteen complaints. These nineteen complaints are more than two decades old. The Revisional Court's order tantamount to unnecessarily prolonging these proceedings to the benefit of respondents-accused.

In the considered opinion of this Court, Revisional Court's order of 6th September, 2017 (Annexure P-4), cannot be sustained, as it does not advance cause of justice. Rather it defeats it. There is no justification whatsoever to invoke the principle of fair trial, as no prejudice is caused to respondents-accused.

In view of aforesaid, impugned order of 6th September, 2017 (Annexure P-4) is hereby quashed and trial court's order of 7th February, 2017 (Annexure P-3) is restored. As a consequence thereof, trial court's order of 6th November, 2017 in the above captioned third and fourth petition cannot be sustained and is accordingly set aside.

Parties through their counsel are directed to appear before the trial court on the date fixed i.e. 18th March, 2019 for recording of statement under Section 313 Cr.P.C. of respondents-accused. Trial court shall ensure expeditious disposal of these nineteen complaint cases.

With aforesaid directions, the above captioned four petitions and applications are accordingly disposed of.

DASTI.