

31.1.2022

The prosecution filed application under S. 220(1) of Cr P C seeking to conduct the trial of present case and of CC No 613/2013 together. In the application, it is stated that final report has been filed in the present case as well as in CC No 613 / 2013 and both the cases arise out of same cause of action. In both cases, final report has been filed by the police stating that accused persons have indulged in the act of cheating. The offences arise out of same transaction by the accused and as such, both cases needs to be tried together. Based on the said grounds, prosecution sought for allowing the application.

Counsel for the accused filed objections to the application wherein it is contended that the evidence of the present case cannot be adopted in CC 613/2013. The present case cannot be tried together with CC No 613/2013 as the ingredients of the provision of S. 220(1) are not attracted. The application is devoid of merits. Based on the said grounds, accused sought for rejection of the application.

Heard Ld APP for prosecution and counsel for accused. Perused the materials on record.

It is the contention of the prosecution that cause of action for the present case and the case in CC No 613/2013 are one and the same which aspect is denied

by the accused. As per S. 220(1) of Cr P C, in order to conduct trial of two cases, series of acts shall form same transaction and the offences shall be committed by the same person. The accused persons are stated to have committed the offence of cheating and in CC no 613/2013 also the accused persons have been alleged to have committed the offence of cheating. One of the essential ingredients of S. 220(1) of Cr P c is that the offence is to be committed by same person. It does not appear to be in dispute that the accused persons in both the cases are one and the same. The accused persons in the present case as well as in C C No 613/2013 are one and the same against whom the act of cheating and dishonest misappropriation is alleged. In CC No 613/2013, other three accused persons are impleaded in the final report along the two accused persons who are accused no 1 and 2 in the present case. The accused persons against whom the act of cheating and dishonest misappropriation is alleged, are one and the same in both cases.

Further, the acts alleged shall form part of same transactions. The acts alleged against accused persons are of cheating and the same act of cheating has been alleged in C C no 613 / 2013. Another ingredient of S 220(1) of Cr P C is that the series of acts connected together form the same transaction. The allegations of the present case as well as the allegations made in C C No 613/2013 appear to arise out of same transactions. There appear to be series of acts which gave to filing of both cases and the acts appear to form part of same transaction. The act alleged against the accused persons in both cases appear to arise out of same transactions and also appear to form part of same transactions. In both cases, the cause of action appears

to arise out of same transactions and the allegations made against the accused persons appear to be one and the same. The allegations made against the accused persons in both cases pertain to act of cheating and the acts appear to arise out of same transactions.

On consideration of the materials placed before the court, both cases appear to arise out of same transactions and the acts alleged against the accused persons appear to be connected together. The acts of the accused persons appear to arise from same transactions and there exist valid grounds for conducting the trial together. S. 220(1) of Cr P C do not stipulate a condition that the witnesses in both the case to be one and the same. The provision does not stipulate that the witnesses in both cases need to be one and the same. The said contention raised by the accused does not sustain for consideration. The materials on record prima facie reveal that the subject matter in both the cases arise out of same transaction. The prosecution made out grounds for allowing the application. There appear valid grounds made out by the prosecution for allowing the application. Hence, this court deems it appropriate to pass the following

ORDER

The application filed by the prosecution under S. 220(1) of Cr P C is hereby allowed.

For charge

Call on 14.02.2022

sd/-

JMFC, Kumta.

