

RCC No. 1176/2002

CNR No. MHKO03-000617-2002

(State of Maharashtra VS. Ravindra Shankarrao Ghorpade & Ors.)**ORDER BELOW EXH.66**

Present application is filed by accused u/s. 210 and 219 of Cr. P. C. for clubbing present case with RCC 1175/2002 and RCC 391/2003. The Ld. APP has filed say to the present application vide Exh. 69. Heard advocate for the accused and Ld. APP. Perused record of all the three cases mentioned above.

2. It is submitted by the accused that, the accused are charge sheeted for forging power of attorney of the complainant i.e. Smt. Malubai Vasantrao Chavan. The same complainant has filed another case with Karveer Police Station and it bears RCC No. 391/2003. The same complainant has filed another private complaint which bears RCC No. 1175/2002. On the basis of same allegations Rajendra Vasantrao Chavan has also filed another private complaint and it is charge sheeted as the present case.

3. Facts of the all these three cases and allegations containing it are regarding preparation of bogus power of attorney in the name of Smt. Malubai Vasantrao Chavan and using the same for further transactions. Therefore, accused submitted that, u/s. 219 of Cr. P. C. trial of three cases of the same allegations upon being charge framed can be clubbed together. It is further submitted that, evidence to be lead by the prosecution will be of the same nature.

4. The Ld. APP objected the present application saying that, such application is not maintainable u/s. 210 of Cr. P. C. as well as u/s. 219. She further submitted that, u/s. 210 of Cr. P. C. procedure is

mentioned about the complaint case and police investigation of the same offence. However, in the present case this provision has no application. In RCC No. 391/2003 and 1176/2002 offences are concerned with different properties situated at different places. Thus, offences are different and charge is framed under different sections. So also, all these offences have not been committed within a prescribed period. Therefore, it is prayed to reject the application.

5. Present application is filed u/s. 210 and 219 of Cr. P. C.. After perusal of this provisions shows that, Sec. 210 leads down procedure to be followed when a case instituted otherwise than a police report and it is made to appear to the magistrate during the course of inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is subject matter of inquiry or trial held by him then, magistrate shall stay the proceeding of such inquiry or trial. In a case then report u/s. 173 of Cr. P. C. is filed and cognizance is taken against the person who is accused in complaint case then, the magistrate shall inquire into or trial together the complaint case and the case arising out of police report.

6. However, in the present case at present position all these three cases though arising out of complaint case; report u/s. 173 of Cr. P. C. is already filed and cognizance is taken. There is no other similar complaint case against the accused pending before this court. RCC No. 1175/2002, 1176/2002, 391/2003 are cases arising out of police report and thus, procedure lead down in the Sec. 210 of Cr. P. C. is not applicable to any of these cases.

7. Sec. 219 of Cr. P. C. provides that “(1) when a person is accused of in more offences than one of the same kind committed

within the space of 12 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 the same kind when they are punishable with the same amount of punishment under the same section of I. P. C. or of any special or local law;" The section speaks about commission of more offences by the same accused against same or different person within a time period of 12 months then, such not more than three offences can be charged with and tried at one trial. However, in the present case accused in all these three cases are different. In RCC No. 1176/2002 and RCC No. 391/2003 Rupesh Chavan and Ravindra Ghorpade are the accused. In RCC No. 1175/2002 Rupesh Chavan, Ravindra Ghorpade and Vandana Ghorpade are the accused. In RCC No. 1176/2002 offences are related to the forged power of attorney of Rajendra Chavan and making fraudulent sale deed of plot No. 22, 23, 24. However, in RCC No. 1175/2002 offences are related to the forged power of attorney of Smt. Malubai Vansatrao Chavan and based upon that executing false sale deed. In this case plot numbers are different than the earlier one. In RCC No. 391/2003 offences are related in respect of illegal sale deed of plot Nos. 9, 16, 18 executed in favour of Deepa Ghorpade, Ilahi Shaikh and Vandana Ghorpade by forging power of attorney of Malubai Chavan.

8. From the facts of the case it is evident that offences are different and they are committed by different accused. Thus, clubbing all the three cases together will not result into the just and fair trial. For commission of different offences separate charge is to be framed

against the accused he should be tried separately for each different offence. Therefore, the prayer made by the accused for the clubbing all the three cases is not maintainable in light of provisions U/s. 210 and 219 of Cr. P. C.. Hence, the following order.

ORDER

1. Application (Exh. 66) stands rejected.

Date : 22.02.2018.
Kolhapur.

Sd/-
(**S. S. Raul**)
16th Judicial Magistrate First Class
Kolhapur

:- Certificate :-

I affirm that the contents of the P.D.F. file judgment are same, word to word, as per the original judgment.

Name of Stenographer	Mr. Ganesh D. Jadhav,
Name of Court	S.S.Raul
Date of Decision	22/02/2018
Order signed by the PO. on	22/02/2018
Order uploaded on	22/02/2018