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

+ **CRL.REV.P. 565/2024, CRL.M.A. 12615/2024**

AKASH JAIN

.....Petitioner

Through: Mr. Dalvinder Singh and Mr.
Devesh Makhija, Advocates

versus

**THE STATE GOVT OF NCT DELHI THROUGH SHO PS
KRISHNA NAGAR DELHI & ANR.**

.....Respondents

Through: Mr. Satish Kumar, APP for the
State with SI Harshvardhan, PS:
Krishna Nagar
Mr. Ayush Rohtagi, Advocate for
R-2 (through VC)
Mr. Manmeet Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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30.07.2026

1. By virtue of the present petition under *Sections 397/401* of the Code of Criminal Procedure, 1973 (**Cr.P.C.**), the petitioner seeks setting aside of the impugned order dated 29.02.2024 in SC No.369/2021 passed by the learned ASJ, District East, Karkardooma Courts, Delhi (**learned Trial Court**) whereby the petitioner's application under *Sections 219/220/223(d)* Cr.P.C. seeking joinder of charges/ joint trial of the accused persons in cases arising of FIR Nos. 97/2020 and 430/2020 was dismissed.
2. Learned counsel for petitioner submits that the respondent no.2/ complainant has filed two separate complaints dated 09.03.2020 and 17.06.2020 against the petitioner and his other family members, on basis



whereof, FIR No. 97/2020 under *Sections 323/354/354(8)/506/509/34* of the Indian Penal Code, 1860 (**IPC**) and FIR No. 430/2020 under *Sections 498A/406/34* IPC have been registered, both at PS.: Krishna Nagar, Delhi. He submits that in both the said FIRs, the subject matter, cause of action and set of allegations are more or less same. In fact, as per him both the said FIRs are arising out of same transaction.

3. Learned counsel then submits that the learned Trial Court has dismissed the petitioner's application ignoring the aforesaid, which has not only led to multiplicity of proceedings but which is also causing unnecessary burden/ hardship on the litigants/ witnesses, as also causing an apprehension of contradictory judicial findings.

4. Further, drawing the attention of this Court to *Section 223 Cr.P.C.*¹,

¹**223. What persons may be charged jointly.**—The following persons may be charged and tried together, namely:

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;
- (c) persons accused of more than one offence of the same kind, within the meaning of Section 219 committed by them jointly within the period of twelve months;
- (d) persons accused of different offences committed in the course of the same transaction;**
- (e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;
- (f) persons accused of offences under Sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence;
- (g) persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate [or Court of Session] may, if such persons by an application in writing, so desire, and if he [or it] is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.



especially, clause (d), learned counsel submits that a bare reading thereof was itself sufficient for the learned Trial Court to hold otherwise.

5. *Per contra*, learned APP supported by learned counsel for the complainant submits that the facts involved in both the FIRs, as also the Sections invoked therein are different. Moreover, it is their case that, barring Akash Jain (petitioner herein), Shubham Jain and Ravinder Jain, parties against whom the FIRs have been registered are also different. In view of the same, they submit that there was no reason for the learned Trial Court to allow the said application of the petitioner.

6. Heard learned counsel for the parties as also learned APP for State.

7. A perusal of the two FIRs reveals that the (gravity of) offences involved, the charges involved, the Sections involved, the accused persons involved, and the time lines involved therein are not the same. The first FIR No.97/2020 is pertaining to sexual offences whereas the second FIR No.430/2020 is pertaining to matrimonial issues. Simply because the complainant and the Police Station are the same are not sufficient for any party to take recourse to *Section 223(d) Cr.P.C.*

8. A joint-trial in such a scenario is not a matter of right, which is only possible if the persons involved would have committed “*different offences*”, but “*in the course of same transaction*”. The same depends upon the facts and circumstances of each individual case. To take recourse to the same, it was incumbent upon the petitioner to show commonality of elements *inter se* the two FIRs. In any event, as held in ***Nasib Singh v. State:2021 OnLine SC 94*** by the Hon’ble Supreme Court, a separate trial is not contrary to law even if joint trial is permissible. The relevant extract therefrom are as under:-



“B. Power to direct joint trial

...

51. From the decisions of this Court on joint trial and separate trials, the following principles can be formulated:

51.1. Section 218 provides that separate trials shall be conducted for distinct offences alleged to be committed by a person. Sections 219-221 provide exceptions to this general rule. If a person falls under these exceptions, then a joint trial for the offences which a person is charged with may be conducted. Similarly, under Section 223, a joint trial may be held for persons charged with different offences if any of the clauses in the provision are separately or on a combination satisfied.

51.2. While applying the principles enunciated in Sections 218-223 on conducting joint and separate trials, the trial court should apply a two-pronged test, namely, (i) whether conducting a joint/separate trial will prejudice the defence of the accused; and/or (ii) whether conducting a joint/separate trial would cause judicial delay.

51.3. The possibility of conducting a joint trial will have to be determined at the beginning of the trial and not after the trial based on the result of the trial. The appellate court may determine the validity of the argument that there ought to have been a separate/joint trial only based on whether the trial had prejudiced the right of accused or the prosecutrix.

51.4. Since the provisions which engraft an exception use the phrase “may” with reference to conducting a joint trial, a separate trial is usually not contrary to law even if a joint trial could be conducted, unless proven to cause a miscarriage of justice.

51.5. A conviction or acquittal of the accused cannot be set aside on the mere ground that there was a possibility of a joint or a separate trial. To set aside the order of conviction or acquittal, it must be proved that the rights of the parties were prejudiced because of the joint or separate trial, as the case may be.”



9. In the present case also, learned Trial Court while dismissing the petitioner's application Sections 219/220/223(d) Cr.P.C. has held thus:

“In the present case, it has not been shown as to how prejudice would be caused to the accused persons by separate trial. The accused persons in both the cases are different except for accused Akash Jain, Shubham Jain and Ravinder Jain. Accused Anil Jain, Aman and Neha Jain are not accused in FIR No.430/2020, which pertains to cruelty by husband and relatives of husband. Similarly, accused Sarita Jain is not an accused in FIR No.97/2020, which pertains to allegations of rape, etc. If joint trial is directed, then prejudice would be caused to accused Anil Jain, Aman Jain and Neha Jain in FIR No.97/2020 and accused Sarita Jain in FIR No.430/2020 as same would result in delay, specially when counsel for accused Anil Jain and Aman Jain on one side and accused Neha Jain on other side are different. Furthermore, regarding cruelty by husband and his relatives, unnecessarily evidence qua FIR No.430/2020 shall be dealt with by accused Anil Jain, Aman Jain and Neha Jain, if joint trial is directed.”

10. This Court is in consonance with the findings rendered by the learned Trial Court, as it has balanced the equities in favour of the parties while considering the aspects to be covered in Sections 219/220/223(d) Cr.P.C. There is, thus, no reason for interfering with the impugned order under challenge, and that too in the present revision petition, where the scope itself is limited and can be gone into if the impugned order suffers from illegality/ perversity/ arbitrariness/ patent error.

11. Interestingly, as of now it is only the petitioner who has singularly approached this Court and the others have chosen to accept the impugned order as it is.

12. Lastly, since proceedings emanating from both FIR No.97/2020 and



FIR No.430/2020 are pending before the very same learned Trial Court, there are hardly any chances of contradictory judicial findings therein.

13. Accordingly, and since the view taken by the learned Trial Court is a plausible one, the present petition alongwith the pending application is dismissed in the aforesaid terms.

SAURABH BANERJEE, J

JULY 30, 2026/So