

Manoj Kumar Vs. State of Rajasthan and anr.

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SooperKanoon Citation : sooperkanoon.com/768945

Court : Rajasthan

Decided On : Dec-19-2003

Reported in : 2004CriLJ3186; 2004(1)WLC81

Judge : N.N. Mathur, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 311

Appeal No. : Criminal Misc. Petn. No. 929 of 2002

Appellant : Manoj Kumar

Respondent : State of Rajasthan and anr.

Advocate for Def. : D.D. Calla, Public Prosecutor and; B.K. Vyas, Adv.

Advocate for Pet/Ap. : B.D. Purohit, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.N. Mathur, J.

1. By way of instant petition under Section 482 of the Code of Criminal Procedure the petitioner seeks to quash the order of the Sessions Judge, Bikaner dated 27-9-2002 confirming the order of the Additional Chief Judicial Magistrate No. 3,

Bikaner dated 19-7-2001.

2. It appears that on the complaint filed by the second respondent, 3 private complaints being 246-98, 247/98 and 248/98 for offence under Section 138 of the Negotiable Instruments Act are pending in the Court of Additional Chief Judicial Magistrate No. 3, Bikaner. During the trial in all separate cases the evidence of the prosecution evidence was separately recorded. However, on the prayer of the petitioner all the three cases were amalgamated by order dated 8-12-99. When the case was at the conclusion after the statements of the prosecution witnesses in joint trial have been recorded the accused petitioner filed an application under Section 311 of the Code of Criminal Procedure for recalling of the complainant. The prayer was rejected by the trial Court. The learned Sessions Judge has confirmed the said order.

3. The instant petition has been filed circumventing the provisions of Section 397(3) Cr.P.C., which prohibits further revision at the instance of the same party. It is urged that the joint prosecution of the petitioner in respect of three private complaints after the stage of accusation of charge under Section 251 Cr.P.C. and after recording the statements of the prosecution witnesses and joint statement of the accused under Section 313, Cr.P.C. and not allowing the petitioner to further cross-examine the complainant has caused injustice to the petitioner. In my view the contention deserves to be rejected for the simple reason that it was on the application of the accused-petitioner that all the three cases were consolidated under the provisions of Section 219, Cr.P.C. by order dated 8-12-99. It appears that the accused is some how interested in delaying the trial. The provisions of Section 482 of the Code of Criminal Procedure cannot be invoked for providing shelter to the accused persons who are interested in delaying the trial.

4. The petition stands dismissed. The record of the case be returned forthwith.