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

DECIDED ON : 4th JULY, 2013

+ **CRL.A. 609/2013**

RAVI KUMAR Appellant
Through : Ms.Arundhati Kaju, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent
Through : Mr.M.N.Dudeja, APP.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Open Court)

1. The appellant- Ravi Kumar has filed appeal to challenge correctness of the order dated 19.03.2013 of learned Additional Sessions Judge by which his prayer to order sentence in FIR Nos. 280/2010 and 05/2010, Police Station Kotwali to run concurrently was disallowed.

2. I have heard the learned counsel for the appellant and have examined the record. It reveals that the appellant- Ravi Kumar was convicted in FIR No. 280/2010 for committing offence under Section 326 IPC PS Kotwali and sentenced to undergo RI for two years and six months with fine ₹ 2,000/-. He completed the substantive sentence on

Crl.A. 609/2013

Page 1 of 3

26.01.2013. Again the appellant was convicted in FIR No. 05/2010 under Section 326 IPC PS Kotwali and sentenced to undergo RI for three years by an order dated 25.01.2012. Appellant's counsel urged to modify the sentence order and to allow both the substantive sentences to run concurrently under Section 427 Cr.P.C. as the appellant is a poor person and has small family to take care of them.

3. Section 427 fixes the time from which a sentence passed on an offender who is already undergoing another sentence should run. The general rule is that a sentence commences to run from the time of its being passed. The power conferred on the Court under Section 427 to order concurrent sentence is discretionary. Where the Court does not specify whether the sentences awarded shall run concurrently or consecutively, presumption is that the Court intended that the sentences shall run one after the other. I find no substance/ merit in the appellant's plea to order both the substantive sentences to run concurrently. In FIR No. 280/2010, the appellant with his associates caused 'dangerous' injuries with sharp weapon i.e. knife on the victim. In the FIR No. 05/2010, the appellant inflicted 'grievous' injuries with knife on the abdomen of the victim. Nominal roll reveals that the appellant is also involved in case FIR No. 1/2011 under Section 25 Arms Act PS Kotwali. The two offences are not

akin or intimately connected. These were committed on different dates in distinct and different circumstances/ occurrences. There were two separate trials. Taking into consideration the injuries inflicted by the appellant to distinct victims on different dates without any motive/ provocation, he deserves no leniency to order concurrent sentences in both the FIRs. The Trial Court took lenient view and awarded RI for three years only.

4. The appeal lacks merits and is dismissed in limini. Copy of the order be sent to Trial Court.

(S.P.GARG)
JUDGE

JULY 04, 2013
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