

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRIMINAL APPEAL NO.418 OF 2015

JUDGMENT:

This appeal is filed by the State challenging the acquittal of the respondent/accused of the charge under Section 307 of the Indian Penal Code (IPC) in judgment dated 19.03.2009 in Sessions Case No.168 of 2008 by the Principal Sessions Judge, West Godavari, Eluru.

In the said judgment, the respondent had been convicted of the offence under Section 302 IPC and was sentenced to rigorous imprisonment for life and also to pay a fine of Rs.100/-. Apart from this, he was found guilty for the offence under Section 324 IPC and was sentenced to suffer simple imprisonment for a period of three months for causing simple hurt to P.W.1 and again, under the same provision of law, for a further simple imprisonment for a period of three months for voluntarily causing hurt to P.W.2. It was directed that all these sentences would run concurrently.

Section 427 of the Code of Criminal Procedure reads as under.

“427. Sentence on offender already sentenced for another offence:- (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under Sec. 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term of imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.”

Interpreting this provision of law, the Supreme Court in **Ranjit Singh v. Union Territory of Chandigarh** has held as under.

“Sub-section (1) of Section 427 Cr.P.C. provides for the situation when a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or life imprisonment. In other words, sub-section (1) of Section 427 Cr.P.C. deals with an offender who while undergoing sentence for a fixed term is subsequently convicted to imprisonment for a fixed term or for life. In such a situation, the first sentence, being for a fixed term, expires on a definite date which is known when the subsequent conviction is made. Sub-section (1) says that in such a situation, the date of expiry of the first sentence which the offender is undergoing being known, ordinarily the subsequent sentence would commence at the expiration of the first term of imprisonment unless the court directs the subsequent sentence to run concurrently with the previous sentence. Obviously, in cases covered by sub-section (1) where the sentence is for a fixed term, the subsequent sentence can be consecutive unless directed to run concurrently. Sub-section (2), on the other hand, provides for an offender “already undergoing sentence of imprisonment for life” who is sentenced on a subsequent conviction to imprisonment for a term or for life. It is well settled since the decision of this Court in **Gopal Vinayak Godse** and reiterated in **Maru Ram** that imprisonment for life is a sentence for the remainder of the life of the offender unless the remaining sentence is commuted or remitted by the appropriate authority. This being so at the stage of sentencing by the court on a subsequent conviction, the earlier sentence of imprisonment for life must be understood in this manner and, therefore, there can be no question of a subsequent sentence of imprisonment for a term or for life running consecutively which is the general rule laid down in sub-section (1) of Section 427. As rightly contended by Shri Garg, and not disputed by Shri Lalit, the earlier sentence of imprisonment for life being understood to mean as a sentence to serve the remainder of life in prison unless commuted or remitted by the appropriate authority and a person having only one life span, the sentence on a subsequent conviction of imprisonment for a term or imprisonment for life can only be superimposed to the earlier life sentence and certainly not added to it since extending the life span of the offender or for that matter anyone is beyond human might. It is this obvious situation which is stated in sub-section (2) of Section 427 since the general rule enunciated in sub-section (1) thereof is that without the court’s direction the

subsequent sentence will not run concurrently but consecutively. The only situation in which no direction of the court is needed to make the subsequent sentence run concurrently with the previous sentence is provided for in sub-section (2) which has been enacted to avoid any possible controversy based on sub-section (1) if there by no express direction of the court to that effect. Sub-section (2) is in the nature of an exception to the general rule enacted in sub-section (1) of Section 427 that a sentence on subsequent conviction commences on expiry of the first sentence unless the court directs it to run concurrently. The meaning and purpose of sub-sections (1) and (2) of Section 427 and the object of enacting sub-section (2) is, therefore, clear.”

A reading of the above judgment indicates that if there is an earlier sentence of imprisonment for life, since the said sentence would operate for the remainder of life in prison unless commuted or remitted by the appropriate authority, any sentence of a subsequent conviction can only be superimposed to the earlier life sentence since a person would have only one life span. The subsequent sentence of imprisonment cannot be added to the earlier sentence of life imprisonment since extending the life span of the offender or for that matter any one is beyond human might.

In this view of the matter, even if the appeal of the appellant-State is allowed, it would make no difference since the respondent had already been sentenced under Section 302 IPC to suffer imprisonment for life. Therefore, no useful purpose would be served by adjudicating this appeal on merits.

Accordingly, the Criminal Appeal is dismissed as superfluous. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.S.RAMACHANDRA RAO, J)

2nd April 2015

RRB