

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No.M-15607 of 2015
Date of decision : 14.10.2015**

Ravinder Mohan Luthra

.....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vikas Bali, Advocate
for the petitioner.

Mr. V.P.S. Sidhu, AAG, Punjab.

Complainant-respondent no.2 in person.

ANITA CHAUDHRY, J.

This is a petition filed under Section 482 Cr.P.C. for directions to the Jail Authorities that the sentences awarded by the trial Court in three complaint cases filed under the Negotiable Instruments Act should be ordered to run concurrently.

The brief facts are necessary. Three separate complaints were filed by Manmohan Krishan Sood against the petitioner regarding dishonour of three cheques and the petitioner was convicted in all the three complaints vide

separate orders but of the same date i.e. 10.07.2014. The details of complaints and sentences are as under:-

Complaint No./Date of institution	Under Sections	Simple Imprisonment for a period of	Fine	In default of payment of fine further imprisonment
191/12.09.2007	138 of N.I. Act	1 year	Rs.1000/-	1 month
256/06.05.2008	138 of N.I. Act	5 months	-	-
748/18.08.2008	138 of N.I. Act	6 months	-	-

Three separate appeals were filed which were also dismissed by the Additional Sessions Judge on 10.03.2015, vide separate orders. No revision was preferred.

Heard.

The counsel for the petitioner refers to ***Brahmjit Vs. State of Punjab and another 2014(2) RCR (Criminal)*** and urges that if the total sentence is counted then the petitioner was sentenced to 1 year and 11 months of custody in all the three cases and the petitioner has already undergone 1 year and 5 months & 17 days of custody and the petitioner prays for concurrent running of sentences. He urges that in Brahmjit's case (supra) the accused had been convicted in two separate cases under the Negotiable Instruments Act which were ordered to run concurrently.

The complainant is present in person. He urges that he was constrained to file different complaints and the different cheques issued by petitioner had bounced and he had been fighting these litigations since last 7 – 8 years and he has not received any compensation.

The State counsel has urged that the petition under Section 482 Cr.P.C. is not maintainable as per the law laid down in ***Jang Singh Vs. State of Punjab 2008(1) RCR (Criminal) 323***. He refers to paragraph no. 18 of the judgment, which reads as under:-

“The consensus of the judicial opinion, as may emerge from different judgments passed by various High Courts and the Hon'ble Supreme Court, seems to be that normal rule, as per Section 427 Cr.P.C., is that a person who is undergoing a sentence of imprisonment and is sentenced on a subsequent conviction to an imprisonment or an imprisonment for life, then such imprisonment or imprisonment of life shall commence after the expiration of the imprisonment, to which he has been previously sentenced. This, however, would not be so if the Court directs that the subsequent sentence shall run concurrently with the previous sentence. Such direction to make the sentences to run concurrently, as per various decisions noted above, can be exercised by the trial Court or by the appellate Court or a revisional Court at the time of exercising appellate or revisional jurisdiction as well. However, if the trial Court does not pass any such direction for making the sentences to run concurrently and appeal or revision against said decision is also decided, then it may not be open for a person to seek such direction for making

the sentences to run concurrently by moving an application under Section 482/427 Cr.P.C. The view taken by one set of the High Courts that such an application can be entertained while exercising inherent powers under Section 482 Cr.P.C. would no more appear to be a good law in view of the decision of the Hon'ble Supreme Court in M.R.Kudva' case (Supra). We are, thus, bound to take this view that this discretion though available with the trial Court, appellate Court or the revisional Court while holding trial or entertaining appeal or revision but would not be so available to be exercised in isolation when application in this regard is moved either under Section 482 or 427 Cr.P.C. What principle and consideration will govern the exercise of this discretion, as already noted above, can not be exhaustively enumerated. Certain relevant factors, as can be culled out from different judgments referred to above, may give an indication where such discretion may be exercised. These factors generally would be the nature or character of the offences committed, the prior criminal record of the offender, character, his age and sex etc. ghastly nature of the crime. The offender being habitual would also be the factor, which can be relevantly taken into consideration. It may be stated at the cost of repetition that these are not the only reasons for which the Court can exercise this discretion. Discretion always is open to be exercised by any Court dependent upon the facts and circumstances of each case on any relevant or valid consideration as may be considered so by the Court while holding the trial or deciding the case at the stage of appeal or revision. It may require a notice that Section 427 Cr.P.C., as observed by Hon'ble Supreme Court, is aimed at amelioration and this aspect may also require to be kept in view while exercising the discretion.”

It is settled that the discretion to order concurrent running of sentences vests with the Trial Court, Appellate Court or the Revisional Court while holding trial or entertaining appeal or the revision but it is not available nor it can be exercised in isolation in the petition filed under Section 482 Cr.P.C.

The petition is, therefore, dismissed.

14.10.2015

sunil

**(ANITA CHAUDHRY)
JUDGE**