

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-44035 of 2014
Date of Decision: 01.12.2015.**

Sandeep Kumar @ Sunny Munder

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Tarun Jhatta, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking a direction that the sentence qua imprisonment in FIR No. 48 dated 6.3.2009 under Section 382, 506 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Division No. 7, Ludhiana and FIR No. 28 dated 21.2.2012 under Section 382, 34 IPC, registered at Police Station Division No. 7, Ludhiana, be ordered to run concurrently.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Petitioner had faced trial in FIR No. 48 dated 6.3.2009 under Section 382, 506 IPC, registered at Police Station Division No. 7, Ludhiana. A perusal of Annexure P-1 reveals that the petitioner had suffered a confession and was convicted and sentenced qua commission of offence punishable under Section

382, 506 IPC. Petitioner had also faced trial in FIR No. 28 dated 21.2.2012 under Section 382, 34 IPC, registered at Police Station Division No. 7, Ludhiana. A perusal of Annexure P-2 reveals that the petitioner had suffered confession and was ordered to be convicted and sentenced qua commission of offence punishable under Section 382 IPC. Orders Annexure P-1 and P-2 were passed on the same day i.e. 28.2.2014 and by the same Court. At that stage, petitioner had not made any request that sentence qua imprisonment in both the cases be ordered to run concurrently. Petitioner had not filed any appeal against his conviction and sentence as ordered by the Trial Court vide Annexures P-1 and P-2. Since no appeal or revision is pending in this Court with regard to conviction and sentence passed by the Trial Court vide Annexures P-1 and P-2, the present petition is liable to be dismissed.

Hon'ble Apex Court in '**M.R.Kudva versus State of Andhra Pradesh, 2007(1) R.C.R. (Criminal) 868**', has held as under:-

“10. However, in this case the provision of [Section 427](#) of the Code was not invoked in the original cases or in the appeals. A separate application was filed before the High Court after the special leave petitions were dismissed. Such an application, in our opinion, was not maintainable. The High Court could not have exercised its inherent jurisdiction in a case of this nature as it had not exercised such jurisdiction while passing the judgments in appeal. [Section 482](#) of the Code was, therefore, not an appropriate remedy having regard to the fact that neither the Trial Judge, nor the High Court while passing the

judgments of conviction and sentence indicated that the sentences passed against the appellant in both the cases shall run concurrently or [Section 427](#) would be attracted. The said provision, therefore, could not be applied in a separate and independent proceeding by the High Court. The appeal being devoid of any merit is dismissed. ”

Accordingly, this petition is dismissed.

**(SABINA)
JUDGE**

December 01, 2015
Gurpreet