

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-44284 of 2014

Date of decision : July 29, 2015

Manish Sahajpal

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vimal Kumar Gupta, Advocate, for the petitioner
Mr. Munish Sharma, AAG, Haryana
None for the complainant/respondent no. 2

Fateh Deep Singh, J. (Oral)

In two separate criminal complaints bearing Nos. 45 dated 19.1.2012 and 46 dated 19.1.2012, the revisionist was found guilty for commission of offence punishable under section 138 of the Negotiable Instruments Act and was sentenced for a period of one year separately vide different judgments of even date both dated 8/11.1.2013, Annexures P/1 and P/3. The convict preferred separate appeals and the learned first appellate court through separate judgments of even date both dated 29.4.2014, Annexures P/2 and P/4 dismissed the same.

In the present invocation, the petitioner has sought prayer for considering his case to the effect that both the sentences being passed in the same very transaction needs to be awarded concurrently which prayer is the sole point raised in this petition.

Heard Mr. Vimal Kumar Gupta, Advocate, for the petitioner and Mr. Munish Sharma, AAG, Haryana and perused the record whereas none has appeared for the complainant-respondent no. 2.

Mr. Munish Sharma, learned State counsel in the absence of counsel for the complainant had not disputed the fact that it was the same very transaction regarding which two different cheques were issued and both complaints were simultaneously disposed of through separate judgments but of even date. The Hon'ble Apex Court in **State of Punjab vs Madan Lal, 2009(2) RCR (Criminal) 602** and **V.K.Bansal vs State of Haryana and others, 2013(3) R.C.R. (Criminal) 983** considering the **thumb rule** popularly termed as **single transaction** rule has held that if a given transaction constitutes two offences under two enactments generally, it is wrong to have consecutive sentences. It was further opined that it is proper and legitimate to have concurrent sentences. The records of the cases tried below as per the own stand of the complainant shows it was concerning same very agreement to sell dated 17.2.2010 executed between complainant Smt. Meena Jain and petitioner Manish Sahajpal in respect of

same very property consisting of dwelling unit situated in Panchkula. Regarding the earnest money dispute, two cheques from the same series and bank were issued by the petitioner from same very account in favour of the complainant, leaves no scope to doubt that it was only one and one chain of transaction, these offences have been committed. Thus, in view of this settled position of law, the instant petition is allowed and sentences so awarded are ordered to be run concurrently.

July 29, 2015
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(Fateh Deep Singh)
Judge