

In the High Court of Punjab and Haryana at Chandigarh

**1. Crl. Misc. No. 7999 of 2014 in/and
Crl. Revision No. 768 of 2014
Date of decision: 15.1.2015**

Shabeg SinghPetitioner

Versus

State of Punjab and anotherRespondents

**2. Crl. Misc. No. 8002 of 2014 in/and
Crl. Revision No. 769 of 2014**

Shabeg SinghPetitioner

Versus

State of Punjab and anotherRespondents

**3. Crl. Misc. No. 8425 of 2014 in/and
Crl. Revision No. 804 of 2014**

Shabeg SinghPetitioner

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rakesh Bhatia, Advocate
for the petitioner.

Mr. K.S.Aulakh, AAG, Punjab.

Mr. Anil Chawla, Advocate
for respondent No. 2.

SABINA, J.

well as petitions would be disposed of.

Petitioner had faced trial in the above three cases qua dishonour of cheques in question. The Courts below have ordered the conviction and sentence of the petitioner under Section 138 of the Negotiable Instruments Act, 1881 ('Act' for short).

Learned counsel for the petitioner has not challenged the conviction and sentence of the petitioner as ordered by the Courts below in all the three cases but has submitted that sentence qua imprisonment of the petitioner be ordered to run concurrently in all the three cases. Learned counsel for the petitioner has further submitted that petitioner had suffered disability in Indo-Pak war in the year 1971 and had suffered disability to the extent of 80%. Petitioner was aged 69 years and was unable to pay the amount in question. In support of his arguments, learned counsel for the petitioner has placed reliance on '**V.K.Bansal versus State of Haryana and others, 2013(3) RCR (Criminal) 983**', wherein it was held as under:-

16. Applying the above test to the 15 cases at hand we find that the cases against the appellant fall in three distinct categories. The transactions forming the basis of the prosecution relate to three different corporate entities who had either entered into loan transactions with the State Financial Corporation or taken some other financial benefit like purchase of a cheque from the appellant that was on presentation dishonoured. The 15 cases that have culminated in the conviction of the appellant and the award of sentences of imprisonment and fine imposed

upon him may be categorised as under:

- (1) Cases in which complainant-Haryana State Financial Corporation advanced a loan/banking facility to M/s Arawali Tubes Ltd. acting through the appellant as its Director viz. No.269-II/97; No.549-II/97; No.393-II/97; No.371-II/97; No.372-II/97; No.373-II/97; No.877- II/96; No.880-II/96; No.878-II/96; No.876-II/96; No.879-II/96; No.485-II/96*
- (2) Cases in which complainant-Haryana State Financial Corporation advanced a loan/banking facility to the appellant to M/s Arawali Alloys Ltd. acting through the appellant as its Director viz. No.156-II/1997 and No.396-II/1998.*
- (3) Criminal complaint No. 331-II/97 in which complainant-State Bank of Patiala purchased/discounted the cheque offered by Sabhyata Plastics acting through the appellant as its Director.*

17. Applying the principle of single transaction referred to above to the above fact situations we are of the view that each one of the loan transactions/financial arrangements was a separate and distinct transaction between the complainant on the one hand and the borrowing company/appellant on the other. If different

cheques which are subsequently dishonoured on presentation, are issued by the borrowing company acting through the appellant, the same could be said to be arising out of a single loan transaction so as to justify a direction for concurrent running of the sentences awarded in relation to dishonour of cheques relevant to each such transaction. That being so, the substantive sentence awarded to the appellant in each case relevant to the transactions with each company referred to above ought to run concurrently. We, however, see no reason to extend that concession to transactions in which the borrowing company is different no matter the appellant before us is the promoter/Director of the said other companies also. Similarly we see no reason to direct running of the sentence concurrently in the case filed by the State Bank of Patiala against M/s Sabhyata Plastics and M/s Rahul Plastics which transaction is also independent of any loan or financial assistance between the State Financial Corporation and the borrowing companies. We make it clear that the direction regarding concurrent running of sentence shall be limited to the substantive sentence only. The sentence which the appellant has been directed to undergo in default of payment of fine/compensation shall not be affected by this direction. We do so because the provisions of Section 427 of the Cr.P.C. do not, in our opinion, permit a direction for the concurrent running of the substantive sentences with sentences awarded in

default of payment of fine/compensation.

Learned counsel for the respondent, on the other hand, has opposed the prayer made by learned counsel for the petitioner on the ground that the transactions in all the cases, were different. Therefore, in view of the decision of the Apex Court in *V.K. Bansal's* case (supra), the sentences in all the three cases could not be ordered to run concurrently. Further, the civil suits filed by respondent No. 2 had been decreed by the Court and the petitioner had failed to pay the amount in question.

So far as Criminal Revision No. 804 of 214 is concerned, the same relates to dishonour of cheque dated 14.10.2005 in the sum of ₹ 6,25,000/-. The said complaint was filed by Tarsem Lal.

So far as Criminal Revision No. 768 of 2014 is concerned, the same relates to dishonour of cheque dated 14.10.2005 in the sum of ₹ 5,95,000/-. The said complaint was filed by M/s Chopra Brothers through its partner Rajinder Chopra.

So far as Criminal Revision No. 769 of 2014 is concerned, the same relates to dishonour of cheque dated 15.4.2005 in the sum of ₹ 1,80,000/-. The said complaint was filed by M/s Chopra Brothers through its partner Rajinder Chopra.

In view of the judgment of the Apex Court in *V.K.Bansal's* case supra, sentence qua imprisonment in complaints filed by M/s Chopra Brothers through its partner Rajinder Chopra against the petitioner can be ordered to run concurrently. So far as the sentence in the complaint filed by Tarsem Lal is concerned, the same forms a different transaction and the sentence qua imprisonment in the said case cannot be held to run concurrently with the sentence qua imprisonment awarded in the complaints

filed by M/s Chopra Brothers through its partner Rajinder Chopra.

Accordingly, conviction and sentence of the petitioner as ordered by the Courts below in all the three complaints are upheld. It is further ordered that sentence qua imprisonment awarded to the petitioner in the complaints filed by M/s Chopra Brothers through its partner Rajinder Chopra in complaint No. 6288 of 2006 (Criminal Revision No. 768 of 2014) and complaint No. 305 of 2006 (Criminal Revision No. 769 of 2014) shall run concurrently. So far as complaint No. 6320 of 2005 (Criminal Revision No. 804 of 2014) is concerned, the sentence qua imprisonment in the said case shall not run concurrently with the other two criminal complaints as the said petition has arisen out of the complaint filed by Tarsem Lal which forms a separate transaction and has no connection with the transactions relating to M/s Chopra Brothers through its partner Rajinder Chopra. It is further clarified that the directions regarding the concurrent running of sentence shall be limited to the sentence qua imprisonment only. The sentence which the petitioner has to undergo in default of payment of fine, shall not be effected by this direction. Further, the sentence awarded in default of payment of fine shall also not run concurrently.

The above three applications/petitions stand disposed of accordingly.

(SABINA)
JUDGE

January 15, 2015

Gurpreet