

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Order delivered on: April 15, 2015

+ **Crl. M.C. No.3277/2014**

SANJAY MISHRA Petitioner
Through Mr. M.L.Yadav and Mr. Lokesh
Chandra, Advocates.
versus

STATE Respondent
Through Mr. M.N.Dudeja, APP for the
State.

**CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH**

MANMOHAN SINGH, J.

1. This matter is taken up today as 14th April, 2015 was declared holiday.
2. The present petition has been filed by the petitioner under Section 482 Cr.P.C. praying therein that the sentence in subsequent case FIR No. 221/2005 be ordered to be run concurrently with the sentence in case FIR No. 234/2005 passed by Metropolitan Magistrate.
3. The petitioner was convicted by Metropolitan Magistrate vide judgment dated 31st August, 2012 in FIR No. 234/2005 for offence under Section 356/379/34 IPC, P.S. Seelampur and was sentenced to rigorous imprisonment for three years and fine and subsequently the court of another Metropolitan Magistrate convicted the petitioner

in FIR No. 221/2005 under Section 356/379/411/34 IPC, P.S. Seemapuri sentencing him to rigorous imprisonment for two years and fine.

4. A joint application was moved by the petitioner before Additional Sessions Judge, Karkardooma Courts for running the sentences concurrently in both the FIR's which was dismissed vide order dated 22nd April, 2014 passed by Additional Sessions Judge with the observation that sessions court has no inherent power and therefore cannot issue any direction for running of the subsequent sentence in FIR No. 221/2005 to run concurrently with the sentence passed by the Metropolitan Magistrate in FIR No. 234/2005.

5. The power of the Court under Section 482 of the Code to direct the sentences to run concurrently is unquestioned. In ***Jadu @ Jadua Bhoi v. State of Orissa*** 1992 CriLJ. 2117 the Orissa High Court held that although the Court has power under Section 482 of the Code to direct the sentences to run concurrently, yet, it will be decided on the facts and circumstances of each case whether such a power should be exercised or not.

6. This judgment is relied upon by this Court in case titled as ***Rajesh @ Raju vs. State (NCT of Delhi)*** 201(2013) DLT 103.

7. Learned counsel for the petitioner states that the petitioner has already served almost 2 years and 8 months of actual custody and maximum sentence awarded to him was of three years. The petitioner is in custody since 1st October, 2012.

8. The petitioner is presently lodged in Central Jail No.5, Tihar, New Delhi. It is submitted by the learned counsel for the petitioner

that the petitioner deserves an opportunity to reform himself. Although the petitioner is denying commission of offence, however, without expressing anything on merit, I would exercise power under Section 482 Cr.P.C. and order that both the sentences passed in two FIRs, being FIR No.221/2005 and FIR No.234/2005, will run concurrently. He is directed to be released forthwith, if he is not required in any other case.

9. The petition is disposed of accordingly. Dasti.

10. Copy of the order be sent to the Jail Superintendent for information and compliance.

(MANMOHAN SINGH)
JUDGE

APRIL 15, 2015