

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

% Order delivered on: April 15, 2015

+ **Crl. M.C. No.4662/2014**

DEEPAK Petitioner
Through Mr.Jatin Rajput, Adv. with
Mr.Anupam and Ms.Richa
Sharma, Adv.
versus

STATE Respondent
Through Ms.Jasbir Kaur, APP for the State.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The present petition has been filed by the petitioner under Section 427 read with Section 482 Cr.P.C. praying therein that the sentences passed by Metropolitan Magistrate in case FIR No. 28/2013, FIR No. 217/2012 and FIR No. 73/2011 be ordered to be run concurrently.

2. The petitioner was convicted by Metropolitan Magistrate vide judgment and order on sentence dated 18th November, 2013 and 28th November, 2013 respectively in FIR No. 28/2013 for offence under Section 420/419/379 IPC, P.S. Darya Ganj and sentenced to undergo rigorous imprisonment for 1 ½ years and to pay compensation of Rs.50,000/- and in default of payment of compensation further

simple imprisonment of three months. An appeal was filed by the petitioner against the judgment dated 18th November, 2013 and order on sentence dated 28th November, 2013 which was dismissed by order dated 22nd February, 2014.

3. The petitioner was convicted by Metropolitan Magistrate vide judgment and order on sentence dated 19th December, 2013 and 21st December, 2013 respectively in FIR No. 217/2012 for offence under Section 406/420/379 IPC, P.S. Darya Ganj and sentenced to undergo rigorous imprisonment for 3 years and to pay compensation of Rs.1,00,000/- and in default of payment of compensation further simple imprisonment of six months. An appeal was filed by the petitioner against the judgment dated 19th December, 2013 and order on sentence dated 21st December, 2013 which was partly allowed by order dated 11th February, 2014 and modified the sentence of the petitioner of rigorous imprisonment from 3 years to 2 years and the compensation was enhanced from Rs.1,00,000/- to Rs.2,00,000/- and in default of payment of compensation further simple imprisonment of one year.

4. The petitioner was convicted by Metropolitan Magistrate vide judgment and order on sentence dated 12th March, 2014 and 14th March, 2014 respectively in FIR No. 73/2011 for offence under Section 420 IPC, P.S. Nabi Karim and sentenced to undergo rigorous imprisonment for 3 years. An appeal was filed by the petitioner against the judgment dated 12th March, 2014 and order on sentence dated 14th March, 2014 which was partly allowed by order dated 26th

April, 2014 and modified the sentence of the petitioner of rigorous imprisonment from 3 years to 2 years.

5. It is stated in the petition that the petitioner had made an oral request before the trial court for running the sentences concurrently in the above said FIR's which was declined.

6. 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.

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

8. Learned counsel for the petitioner states that the petitioner is aged about 38 years and is in judicial custody since 17th February, 2013 i.e. for the last more than 18 months. The petitioner is the only responsible member of his family comprising of his old aged ailing mother, wife and two minor children and is the sole bread earner for his family.

9. The petitioner is presently lodged in Central Jail No.3, Tihar, New Delhi. Without expressing anything on merit, I would exercise power under Section 482 Cr.P.C. and order that all the sentences passed in FIRs, being FIR No. 28/2013, FIR No. 217/2012 and FIR No.73/2011, will run concurrently. He is directed to be released forthwith, if he is not required in any other case.

10. The petition is disposed of accordingly. Dasti.
11. Copy of the order be sent to the Jail Superintendent for information and compliance.

(MANMOHAN SINGH)
JUDGE

APRIL 15, 2015