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

Judgment delivered on: 15th July, 2015

+ CRL.M.C. 1647/2015

SUNIL MASHI @ SILLY

..... Petitioner
Represented by: Mr. Jatin Rajput
and Mr. Anupam Dubey, Advs.

versus

STATE

..... Respondent
Represented by: Mr. Ravi Nayak,
APP for State with SI Akash Deep,
ASI Shyam Sunder, PS-Mukherjee
Nagar.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition, petitioner seeks directions thereby directing that the sentence awarded in Crl. Appeal No. 126/2013 dated 22.11.2013 to run concurrently with the sentence awarded in Crl. Appeal No. 610/2013 dated 14.10.2014.

2. Ld. Counsel appearing on behalf of the petitioner submits that petitioner was sentenced to undergo RI for 10 years by the ld. Trial Court in case FIR No. 824/2006, registered at PS-Punjabi Bagh for the offences punishable under Sections 379/328/411 IPC. Being aggrieved, petitioner filed an Appeal before this Court being

Crl. A. no. 610/2013. Same was dismissed vide order dated 14.10.2014. However, his sentence was reduced from 10 years RI to 7 years RI.

3. Ld. Counsel further submits that petitioner was also convicted in FIR no. 240/2001, registered at PS-Mukherjee Nagar for the offences punishable under Sections 308/34 IPC, wherein he was sentenced to undergo RI for 1 year by the ld. Trial Court. Being aggrieved, petitioner filed an Appeal before this Court being Crl. A. no. 126/2005. Same was dismissed vide order dated 22.11.2013. However, his sentence was reduced from 1 year RI to 6 months RI.

4. To strengthen his arguments, ld. Counsel has relied upon a case of ***Kotikalapudi Subba Rao v. State of AP and Ors. 2008 (5) SCC 390***, wherein the Hon'ble Supreme Court has held that if any person is convicted in two cases, then the benefit of Section 427/428 Cr. P.C. should be given to the convict.

5. It is admitted that fact while deciding the Appeals mentioned above, the petitioner did not ask for the relief sought in the instant petition.

6. It is noted that in the case of ***Mohd. Akhtar Hussain v. Assistant Collector of Customs, 1988 4 SCC 183***, the Hon'ble Supreme Court recognized the basic rule of convictions arising out of a single transaction justifying concurrent running of the sentences. If a given transaction constitutes two offences under two

enactments generally, it is wrong to have consecutive sentences. It is proper and legitimate to have concurrent sentences. But this rule has no application if the transaction relating to offences is not the same or the facts constituting the two offences are quite different.

7. In the present case, there are two different incidents of different dates and that is in the jurisdiction of two different police stations. Thus, both the offences are committed in different periods of time. Therefore, both the cases are not related to each other. Moreover, the petitioner committed an offence, when his Appeal was pending adjudication before this Court. The petitioner is less sensitive about the human life and for the sake of valuable items and cash, he puts anyone's life at stake. In addition to above, the petitioner is involved in 11 criminal cases. Out of which 5 cases are administering stupefying / intoxicating substance.

8. In view of the facts of the present case and the legal position discussed in the case of *V.K. Bansal v. State of Haryana and Ors. 2013 7 SCC 211* decided by the Hon'ble Supreme Court on 05.07.2013, I find no grounds to allow the present petition.

9. Accordingly, the petition is allowed.

SURESH KAIT, J

JULY 15, 2015/jg