

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE Nos.2181, 2182

and

CRIMIAL REVISION CASE No.2183 of 2015

COMMON ORDER:

Crl.R.C.No.2181 of 2015 is filed under Sections 397 and 401 of Cr.P.C. challenging the judgment dated 05.05.2014 passed in Criminal Appeal No.397 of 2013 on the file of the Court of the VI Additional District and Sessions Judge, Kakinada, wherein and whereby, the conviction and sentence imposed against the petitioner in C.C.No.351 of 2012 on the file of the Court of the Special Mobile Judicial Magistrate of First Class, Kakinada was confirmed.

2. Crl.R.C.No.2182 of 2015 is filed under Sections 397 and 401 of Cr.P.C. challenging the judgment dated 05.05.2014 passed in Criminal Appeal No.396 of 2013 on the file of the Court of the VI Additional District and Sessions Judge, Kakinada, wherein and whereby, the conviction and sentence imposed against the petitioner in C.C.No.332 of 2012 on the file of the Court of the Special Mobile Judicial Magistrate of First Class, Kakinada was confirmed.

3. Crl.R.C.No.2183 of 2015 is filed under Sections 397 and 401 of Cr.P.C. challenging the judgment dated 05.05.2014 passed in Criminal Appeal No.395 of 2013 on the file of the Court of the VI Additional District and Sessions Judge, Kakinada, wherein and whereby, the conviction and sentence imposed against the petitioner in C.C.No.288 of 2012 on the file of the Court of the

Special Mobile Judicial Magistrate of First Class, Kakinada was confirmed.

4. Since the issue involved in all the revisions is one and the same, they are being disposed of by this common order.

5. A perusal of the record reveals that the petitioner herein faced the trial in C.C.Nos.351, 332 and 288 of 2012 on the file of the Court of the Special Mobile Judicial Magistrate of First Class, Kakinada for the offence punishable under Section 411 read with 34 I.P.C. The learned trial Judge convicted the petitioner/A.2 for the offence punishable under Section 411 read with 34 I.P.C. in all the cases and sentenced him to suffer simple imprisonment for two years in each case. Aggrieved by the same, the petitioner herein preferred Criminal Appeal Nos.397, 396 and 395 of 2013 respectively and the lower appellate Court confirmed the said convictions and sentences.

6. At the time of arguments, the learned counsel for the petitioner, in all fairness, submitted that the petitioner is not challenging the convictions and sentences imposed against him. The only relief sought for by the learned counsel for the petitioner is that the convictions and sentences imposed against the petitioner in C.C.Nos.351, 332 and 288 of 2012 as confirmed in Criminal Appeal Nos.397, 396 and 395 of 2013 may be ordered to run concurrently.

7. To substantiate the argument, the learned counsel for the petitioner has drawn the attention of this Court to the decision of this Court in **Itineni Linganna v. Superintendent, Central Jail,**

Warangal and another¹, wherein this Court held at paragraph

Nos.14, 15 and 16 as follows:

“14. In **‘Shersingh vs. State of M.P.’**, (1989 Cri. L.J.632 (FB)’, the Full Bench of Madhya Pradesh High Court held as follows:

Inherent powers of the High Court can be invoked under Section 482 even if the trial Court or the appellate or revisional Court has not exercised its discretion under Section 427(1) of the Code in directing running of previous and subsequent sentences concurrently. The inherent powers of the High Court is not in any way fettered by the provisions of Section 427(1) and it can be invoked at any stage even if there is no such order passed under Section 427(1) by the trial Court or appellate or revisional Court and even though the conviction has become final”.

15. The above decision refers to the decision of the Division Bench of this Court in **‘V. Venkateswarlu vs. State of A.P.’**, (1987 Cri. L.J.1621)’ wherein it was held as follows:

“The High Court while exercising its revisional jurisdiction suo motu or in exercise of its inherent power under Section 482, can direct the sentence to run concurrently as provided under Section 427 Cr.P.C. even though the convictions and sentences that have been passed by the Additional Sessions Judges of different Sessions Divisions have become final”.

16. In **‘Mani vs. State of Kerala’** (1983 Cri.L.J. 1262) wherein it was held as follows:

“Neither the trial Court nor the appellate court is competent to exercise the discretion conferred under Section 427 of the Code after the judgment has been signed. But it would be competent for the High Court in exercise of its inherent power to direct that the sentence under a subsequent conviction to imprisonment may run concurrently with the previous sentence even if the stage for exercise of discretion under Section 427 of the Code is over in circumstances, where it would serve any of the three purposes mentioned in the section i.e., to give effect to any order under the Code or to prevent the abuse of the process of the Court or otherwise to secure the ends of justice”.

8. In **Ammavasai v. Inspector of Police**², the Apex Court affirmed the view that consolidation of sentences against the same accused in various cases is permissible.

9. The learned counsel for the petitioner has also drawn the attention of this Court to the orders passed by this Court in

¹ 2010 (1) ALT (CrL.) 354 (DB) (A.P.)

² (2001) 1 ALT 342 (DN SC)

Criminal Revision Case Nos.668, 670, 671, 672, 673, 675 and 683 of 2016. The petitioner herein is one of the petitioners in the above referred revisions.

10. In view of the principle enunciated in the case cited supra, since the petitioner is convicted for the offence punishable under Section 411 read with 34 I.P.C. in three cases and as all the judgments are pronounced by the same Court, it would be just and proper to order the sentences imposed by the trial Court in C.C.Nos.351, 332 and 288 of 2012 on the file of the Court of the Special Mobile Judicial Magistrate of First Class, Kakinada, as confirmed by the appellate Court in Criminal Appeal Nos.397, 396 and 395 of 2013 on the file of the Court of the VI Additional District and Sessions Judge, Kakinada to run concurrently.

11. Accordingly, all the Criminal Revision Cases are disposed of confirming the convictions and sentences of the petitioner in all the cases and the sentences of imprisonment imposed on the petitioner in each case shall run concurrently with the other case.

12. Consequently, Miscellaneous Petitions, if any, pending in these Criminal Revision Cases shall stand closed.

T.SUNIL CHOWDARY, J

Date: 21.10.2016
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