

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

**CRIMINAL REVISION CASE Nos. 668, 670, 671, 672, 673, 675
and 683 of 2016**

COMMON ORDER:

Crl.R.C.No.668 of 2016 is filed assailing the judgment dated 23.11.2015 passed in Crl.A.No.74 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.461 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.670 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.76 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.463 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.671 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.73 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.460 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.672 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.70 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.457 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.673 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.75 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.462 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.675 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.72 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.459 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

Crl.R.C.No.683 of 2016 is filed assailing the judgment dated 30.11.2015 passed in Crl.A.No.71 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari District at Kakinada, confirming the conviction and sentence passed in C.C.No.458 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

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

Though various grounds are raised in the revisions, learned counsel for the petitioner restricts his prayer seeking a direction to run the sentences in all the cases concurrently.

As seen from the record, the petitioner herein was tried in C.C.Nos.461, 463, 460, 457, 462, 459 and 458 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada for

an offence punishable under Section 411 IPC. The learned trial Judge convicted the petitioner/accused for the offence punishable under Section 411 IPC in all the cases and sentenced him to suffer simple imprisonment for one year and to pay fine of Rs.200/- in default simple imprisonment for one month. Aggrieved by the same, the petitioner herein preferred Crl.A.Nos.74, 76, 73, 70, 75, 72 and 71 of 2015 respectively and the lower appellate Court confirmed the said conviction and sentence..

The question is as to whether this Court has suo-moto got the power the sentences in all the cases to run concurrently. Since these are all jail appeals the counsel for the petitioner submits that this Court has got suo-moto power to direct the sentences in all cases to run concurrently.

An identical issue came up for consideration before this Court in ***V.Venkateswarlu v. State of A.P.***^[1] wherein this Court had an occasion to consider the power and parameters of the Court in directing the sentences to run concurrently. On an exhaustive review of the case law, the Division Bench of this Court held as under:

“It must be remembered that Sec. 427 Cr.P.C. provides for directing the sentence awarded in the subsequent case to run concurrently with the previous sentence. It may be that the subsequent convicting Court was not apprised about the existence of the previous sentence. At any rate ordering of sentence to run concurrently does not amount to altering the finding. It may be noted that Sec. 31 Cr.P.C. provides for ordering the sentences to run concurrently in a given case. Likewise, under Section 427 Cr.P.C. while awarding a sentence in a subsequent case in respect of the person who is already undergoing sentence in a previous case, a discretion is given to the subsequent convicting Court to give such a

direction and order the sentence to run concurrently with the previous sentence. As laid down in the above decisions, even after such a sentence has become final, nothing prevents the High Court to exercise its *suo motu* revisional jurisdiction or entertain an application under Section 482 Cr.P.C. and give the necessary directions as provided under section 427 Cr.P.C.

However, as regards the exercise of power to direct the sentence to run concurrently, their Lordship held as under:

In the instant case, the petitioner is convicted for the offence of dacoity in both the cases. Having regard to the nature of the offence, we do not think that this is a fit case where we should exercise our inherent power to *suo motu* revisional power in favour of the petitioners.

A Full Bench of Madhya Pradesh High Court in ***Sher Singh v. State of M.P.***^[2] held that directing the sentence to run concurrently is permissible under Section 427 (1) Cr.P.C. and the power can be exercised even when the matter is brought before the High Court in an application under Section 482 of Cr.P.C.

In ***Ammavasai v. Inspector of Police***^[3] the Apex Court affirmed the view that consolidation of sentences against the same accused in various cases is permissible. As regards exercise of that power, it had struck a balance between the wholesale consolidation of sentences and total denial of the facility. The sentences in various cases were clubbed into two groups depending on the number of cases in which the respective appellants are involved and the sentences in the cases in each group were directed to run concurrently. Similar issue came up for consideration before this Court in ***Bandamedi Shankar and others v. State of Andhra Pradesh***^[4] wherein learned Judge

held that in view of procedure adopted by the Apex Court in ***Ammavasai case (3 supra)*** an exercise needs to be undertaken to consolidate the sentences against each of the appellants, taking into account the number of cases in which they are involved. This Court held that ends of justice would be met if the conviction and sentence for the offences are sustained but are directed to run concurrently with the sentence imposed against them in one of the cases where the highest sentence is imposed.

In view of the procedure adopted by the Apex Court in Ammavasai case (3 supra) and taking into consideration the observations made by this Court in Bandamedi Shankar case (4 supra), since the petitioner is convicted for the offence punishable under Section 411 IPC in seven cases and as all the judgments are pronounced by the same Court, it would be just and proper to order the sentence awarded by the trial court in C.C.Nos.461, 463, 460, 457, 462, 459 and 458 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Kakinada, as confirmed by the appellate Court in Criminal Appeal Nos. 74, 76, 73, 70, 75, 72 and 71 of 2015 on the file of the III Additional District and Sessions Judge, East Godavari at Kakinada to run concurrently.

Accordingly, all the Revisions are disposed of confirming the conviction and sentence of the petitioner in all the cases and the sentence of imprisonment imposed on the petitioner in each case is directed to run concurrently with the other case.

Miscellaneous petitions, if any, pending, shall stands closed.

C. PRAVEEN KUMAR, J

15.03.2016

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[\[1\]](#) (1987 CrI.L.J. 1621

[\[2\]](#) 1989 CrI.L.J. 632

[\[3\]](#) (2001) 1 ALT 342 (DN SC)

[\[4\]](#) (2003) 2 ALT (CrI.) 266 (A.P.)