

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-174-2016

Date of Decision : 18.02.2016

Beena Rani @ Veena Rani @ Beena Devi

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the digest?**

Present : Mrs. Kiran Bala Jain, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. the convict Beena Rani @ Veena Rani @ Beena Devi has sought issuance of directions to the respondents for her release having undergone requisite sentence after allowing running of sentences concurrently.

Upon hearing Mrs. Kiran Bala Jain, Advocate for the petitioner and Mr. Munish Sharma, Asstt. Advocate General, Haryana and perusing the records of the case.

It is the own stand of the petitioner that she was convicted by the learned Sessions Judge, Yamuna Nagar in case bearing FIR No.176 dated 25.04.2008 (herein after referred to "first case") under

Sections 489-B and 489-C IPC pertaining to Police Station City Yamuna Nagar, whereby she had been found guilty and vide judgment and order of sentence dated 28.08.2009, the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhari has convicted her to rigorous imprisonment for 05 years and pay a fine of Rs.5,000/- and in default of fine to undergo simple imprisonment for 06 months. In another case FIR No.272 dated 04.08.2009 (herein after referred to “second case”), under Sections 489-B and 489-C read with Section 120-B, IPC pertaining to Police Station Farakpur, Haryana on 11.10.2010 and was sentenced to undergo rigorous imprisonment for 07 years and to pay fine of Rs.1000/- and in default of payment of fine to further undergo simple imprisonment of one month.

It is the own stand of the State as per their reply that in the first case the petitioner was released after undergoing the sentence on 13.07.2013 as she was entitled to remissions and, thereafter, her sentence of imprisonment *qua*, the second case had started. It is worthwhile to refer here that in second case this Court vide judgment delivered in Criminal Appeal-S-3003-SB-2010 vide judgment dated 09.12.2014 had reduced the sentence from 07 years to 06 years. In the first case this Court in Criminal Appeal No.S-2585-SB-2009 vide judgment dated 07.05.2015 had reduced the rigorous imprisonment so awarded from 05 years to 02 years and 06 months.

The only contentious issue that emerges from the arguments of Mrs. Kiran Bala Jain, Advocate for the petitioner and Mr. Munish Sharma, Asstt. Advocate General, Haryana is whether both the

sentences have to run concurrently or are to be considered as consecutive. The Hon'ble Apex Court in “**O.M. Cherian @ Thankachan Vs. State of Kerala and others 2014 (Sup) Cri. L.R. 555, Manoj @ Panu Vs. State of Haryana 2014(1) R.C.R.(Criminal) 525, M.R. Kudva Vs. State of Andhra Pradesh 2007(1) R.C.R.(Criminal) 868, Saibanna Vs. State of Karnataka 2005(2) R.C.R.(Criminal) 708, Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti Vs. Assistant Collector of Customs (Prevention), Ahmedabad and others 1988 AIR (SC) 2143** and a Full Bench view of this Court in “**Jang Singh Vs. State of Punjab 2008(1) R.C.R.(Criminal) 323** and a Full Bench view of Hon'ble High Court of Bombay in **Satnam Singh Purasing Gill Vs. State of Maharashtra 2009(1) R.C.R.(Criminal) 703** have considered this aspect and though in all these catena of case law, there is divergent expression of opinions, the question certainly narrows down that it is a pure discretionary power of the Courts and it is not a discretion that can be exercised at the caprice and will of the Court but is to be accomplished on a sound judicial principle. The Courts have taken into consideration the provisions of Section 427 and Section 31 of the Criminal Procedure Code and it was laid down in unison wherein their Lordships were of the opinion that the words “in this the Court directs that such punishments shall run concurrently” occurring in sub-Section (1) of Section 31 of Cr.P.C. makes it emphatically clear that vast discretion vests in the Courts to direct that the punishment shall run concurrently when the accused is convicted at one trial for two or more offences. Further holding that the Court has power and discretion to

issue a direction for concurrent running of the sentences since when the accused is convicted at one trial, however, distinguishing the opening words of Section 31 Cr.P.C. “in the case of consecutive sentences” in sub-Section (2) of Section 31 Cr.P.C., the Courts were of the opinion that the same were meant to mean in which consecutive sentences are ordered and, that is how the trial Court can exercise its discretion to specify in its orders which one particular sentence shall commence after the expiration of the other and that the difficulty arises when the Courts impose sentence of imprisonment for life and also sentence of imprisonment for a fixed term and if the Court does not direct that operation it means that sentences will run consecutively by operation of Section 31 sub-Section (1) Cr.P.C. which is the very distinguishing feature. Reverting back to the instant case, though the petitioner has been convicted under the same very provisions of law i.e. Section 489-B, 489-C and 120-B IPC but in two different criminal trials arising out of different cases of entirely different transactions and that too, pertaining to different police stations. Thus, the basic rule of thumb that has evolved over the years as laid down in “**Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti v. Asstt. Collector of Customs (Prevention), Ahmedabad & Anr., (1988) 4 SCC 183**”, so called single transaction rule for concurrent sentences does not apply to the case in hand, since the given transaction constitutes entirely different stage of crimes, though to the same very nature but at different points of time .

Thus, in the light of what has been detailed and discussed above and in view of the settled position of law, the prayer being sought

by the petitioner cannot be entertained and the sentences so awarded to her needs to run consecutively and not concurrently. As such, the instant petition being devoid of any merit stands dismissed.

February 18, 2016
Dpr

(FATEH DEEP SINGH)
JUDGE