

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

**Criminal Revision No.3367 of 2015 (O&M)  
Date of Decision: 18.03.2016**

Ajay Rana

...Petitioner(s)

Versus

State of UT Chandigarh

...Respondent(s)

**Criminal Revision No.3370 of 2015 (O&M)**

Ajay Rana

...Petitioner(s)

Versus

State of UT Chandigarh

...Respondent(s)

**Criminal Revision No.3373 of 2015 (O&M)**

Ajay Rana

...Petitioner(s)

Versus

State of UT Chandigarh

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

- 1. Whether reporters of local newspapers 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:- Mr. Naresh Jain, Advocate  
for the petitioner (s).

Mr. A.S. Sullar, APP, UT Chandigarh.  
\*\*\*\*\*

**HARI PAL VERMA, J.**

This order shall dispose of CRR Nos.3367, 3370 and  
3373 of 2015, as the same have arisen out of common FIR No.216

dated 9.4.2008 under Sections 420, 467, 468, 471, 474 and 120-B

IPC, Police Station Sector 39, Chandigarh, in which though four challans were presented by the prosecution against the petitioner and the trial Court also dealt with the same separately but the contents of the challans as well as the witnesses therein are same.

Petitioner - Ajay Rana has filed the present revision petitions challenging the judgment dated 27.7.2015 passed by learned Additional Sessions Judge, Chandigarh whereby the appeals preferred by the petitioner against the judgment of conviction and sentence dated 12.5.2014 passed by Judicial Magistrate Ist Class, Chandigarh have been dismissed.

In Police Challan Nos.2481 to 2483 of 2008 (Challan Nos.1 to 3), learned Judicial Magistrate Ist Class, Chandigarh had chargesheeted the petitioner under Sections 420, 467, 468, 471, 474 and 120-B IPC and convicted and sentenced him for commission of offences punishable under Sections 420, 468, 471 read with Section 120-B IPC as under:-

| Name of accused | Offence under Sections | Punishment                          | Fine  | In default |
|-----------------|------------------------|-------------------------------------|-------|------------|
|                 | 420 IPC                | Rigorous Imprisonment for two years | 500/- | 15 days    |
|                 | 468 IPC                | Rigorous Imprisonment for two years | 500/- | 15 days    |
|                 | 471 IPC                | Rigorous Imprisonment for one year  | ----- | -----      |

|  |         |                                          |      |      |
|--|---------|------------------------------------------|------|------|
|  | 120 IPC | Rigorous<br>Imprisonment<br>for 6 months | ---- | ---- |
|--|---------|------------------------------------------|------|------|

However, in Police Challan No.2483 of 2008 (Challan No.4), the petitioner has been acquitted. For brevity, the facts are being noticed from CRR No.3367 of 2015.

Brief facts of the case are that in the month of July, 2006, complainant Abhimanyu Singh Kanwar made a complaint that he read an advertisement of Chandigarh Paramedical Science Institute, Sector 38-C, Chandigarh in the newspaper, to the effect that it was offering Ayurvedic, Dental, Lab and Laboratory courses. The complainant visited the institute and met Des Raj Rana who was the Principal of the institute. He also met his son Ajay Rana. Both the accused namely Des Raj Rana and Ajay Rana disclosed that the institute is affiliated to Vinayaka Mission Research Foundation University, Tamilnadu. Believing it to be a genuine institute, the complainant took admission in two courses i.e. Ayurvedic Pharmacy for a period of two years and also another course namely CMS and ED for a period of one and half year. He purchased the prospectus and paid admission fee for the courses. However, no receipt was issued. Des Raja Rana, Principal, told him that there was no need for such receipt. Thereafter, monthly fee for both the courses was paid, for which, receipts were issued. The complainant was informed that the examination will be held in the month of June, 2007 for first

Semester Examination, for which, fee was paid, but no receipt was issued. It created some suspicion in the mind of the complainant, as at the time of admission, it was told that the examination will be conducted at Vinayka Mission Research Foundation University at Tamilnadu, whereas the examination was taken by the institute itself at Chandigarh. Thereafter, no examination was held in the institute. The accused who were also teaching in the institute, rather told the complainant that the diploma would be given to him without any examination. However, when the diploma was not given for some time, the students protested. On protest, Des Raj Rana gave two DMCs of the year 2007 at serial No.90/2704 which showed the month and year of examination as February, 2006. The course name in the said DMC was Diploma in Ayurvedic Pharmacy from JRN Rajasthan Vidhyapeeth University, Udaypur. In another certificate at serial no.19/3614, the month and year of the examination was shown as July, 2006 and the name of the course was Ayurvedic Pharmacy from JRN Rajasthan Vidhyapeeth University, Udaypur. Interestingly, in both the certificates, the accused had shown different enrolment numbers. Moreover, the complainant had taken admission in the institute in July, 2006 but the certificates were given for examinations held in February, 2006 and July, 2006. In this manner, the accused have cheated the complainant. Later on, it was also found that the Chandigarh Paramedical Science Institute run by the accused was not affiliated to the

University, as claimed by the accused and the accused have forged the certificates and cheated the students leading to registration of the instant FIR.

The trial Court vide judgment dated 12.5.2014, after hearing learned counsel for the parties and appreciating the evidence on record, convicted the petitioner-Ajay Rana for offences under Sections 420, 468, 471 read with Section 120-B IPC and sentenced him, as quoted above.

The petitioner preferred an appeal against the aforesaid judgment dated 12.5.2014 passed by learned Judicial Magistrate Ist Class which was dismissed by learned Additional Sessions Judge, Chandigarh vide judgment dated 27.7.2015, however, with slight modification in the order of sentence. It was ordered that the sentence in default of payment of fine shall be considered as simple imprisonment and other sentences shall remain the same.

Aggrieved from the aforesaid judgments passed by the Courts below, the petitioner has filed the present revision petition.

On 9.9.2015, when this matter came up for consideration, this Court issued notice of motion with regard to quantum of sentence only as under:-

*“Challenge in this criminal revision petition is to the judgment dated 27.07.2015 passed by learned Additional Sessions Judge, Chandigarh, whereby the appeal filed by the petitioner challenging his conviction*

*and sentence for the offences punishable under Sections 120, 420, 468 and 471, IPC, recorded by learned Judicial Magistrate Ist Class, Chandigarh, was dismissed.*

*At the very outset, learned counsel for the petitioner contends that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner. However, he submits that in view of the circumstances of the case, the sentence awarded by the Courts below is on higher side.*

*Notice of motion for 30.10.2015 with regard to quantum of sentence only.”*

Learned counsel for the petitioner without adverting to the merits of the case, has confined his arguments to the extent of quantum of sentence only and submitted that the sentence awarded to the petitioner may be ordered to run concurrently, as provided under Section 427 CrPC, as the petitioner has been convicted in two other cases arising out of same FIR and the revision petitions arising out same have ordered to be clubbed along with the present revision petition. Thus, the precise argument put forward by learned counsel for the petitioner is that the sentence awarded to the petitioner be ordered to run concurrently, failing which, great prejudice shall be caused to him. Learned counsel further submits that in view of Section 482 CrPC, High Court has jurisdiction to order subsequent sentence to run concurrently, not only in the same FIR but in other cases as well. Learned counsel further submits that after conviction, in the

aforesaid cases, the petitioner has not been involved in any other case. He has placed reliance upon judgments of Hon'ble Supreme Court in **State of Punjab v. Madan Lal 2009(2) RCR (Criminal) 602,** and **V.K. Bansal v. State of Haryana 2013(3) RCR (Criminal) 983** and judgment of this Court in **Jang Singh v. State of Punjab 2008(1) RCR (Criminal) 323** to support his contention that when the accused has been convicted in two different cases, discretion to make the sentences to run concurrently can be exercised by the trial Court or by the Appellate Court or a revisional Court at the time of exercising appellate or revisional jurisdiction as well and it is not open for a person to seek such direction for making the sentences to run concurrently by moving an application under Sections 482 and 427 CrPC.

Sections 427 CrPC read as under:-

***“427. Sentence on offender already sentenced for another offence.***

*(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:*

*Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence*

*committed prior to the making of such order, the latter sentence shall commence immediately.*

*(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.”*

I have heard learned counsel for the petitioner perused the impugned judgments.

The prayer made on behalf of the petitioner is confined to the extent that the sentences awarded to the petitioner in three different cases be ordered to run concurrently, as all the three cases have arisen out of same FIR on similar allegations.

Learned State counsel has filed the custody certificate of the petitioner in all the three revision petitions and contends that in CRR No.3367 of 2015, the custody period of the petitioner comes out to 1 year and 11 months, whereas in CRR No.3370 and 3373 of 2015, he is in custody for the last about nine months.

This Court in **Manish Kumar v. State of Punjab & others** CRM-M-18435 of 2015 decided on 4.9.2015, while taking into consideration the judgment of Hon'ble Apex Court in **O.M. Cherian @ Thankachan Vs. State of Kerla and others, 2014(4) R.C.R. (Criminal) 922**, has allowed the sentence of petitioner- therein to be run concurrently. Relevant paragraphs of the said judgment read as under:-

*“Learned counsel for the petitioner while placing reliance of the judgment of Hon'ble the Apex Court in **O.M. Cherian @ Thankachan Vs. State of Kerla and others, 2014(4) R.C.R. (Criminal) 922**, submits that if two life sentences are imposed on the convict, necessarily, the Court has to direct those sentences to run concurrently. He further submits that in view of Section 31 Cr.P.C. and Section 427 Cr.P.C., when the prosecution is based on single incident/transaction where it constitutes two or more offences, sentences are to run concurrently. Imposing separate sentences, when the acts constituting different offences form part of the single incident/transaction is not justified.*

*Para Nos, 16, 17, 18, 20 and 21 of the said judgment read as under:-*

*“16. When the prosecution is based on single transaction where it constitutes two or more offences, sentences are to run concurrently. Imposing separate sentences, when the acts constituting different offences form part of the single transaction is not justified. So far as the benefit available to the accused to have the sentences to run concurrently of several offences based on single transaction, in **V.K. Bansal vs. State of Haryana & Anr. 2013 (3) R.C.R. (Criminal) 983: 2013(3) R.C.R. (Civil) 1052 : 2013(4) Recent Apex Judgments (R.A.J) 680: (2013) 7 SCC 211**, in which one of us (Justice T.S. Thakur) was a member, this Court held as under:-*

*“... we may say that the legal position favours exercise of discretion to the benefit of the prisoner in cases where the prosecution is based on a single transaction no matter different*

*complaints in relation thereto may have been filed as is the position in cases involving dishonour of cheques issued by the borrower towards repayment of a loan to the creditor.”*

*17. This Court in the case of **Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti vs. Asstt. Collector of Customs (Prevention) Ahmedabad and Anr., (1988) 4 SCC 183**, recognized the basic rule of conviction arising out of a single transaction justifying the concurrent running of the sentences. The following passage in this regard is relevant to be noted :-*

*“The basic rule of thumb over the years has been the so-called single transaction rule for concurrent 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.”*

*In **Manoj alias Panu vs. State of Haryana, 2014 (1) R.C. R (Criminal) 525: 2014(1) Recent Apex Judgments (R.A.J.) 197 :2014 2 SCC 153**, the Bench followed Mohd. Akhtar Hussain’s case.*

*18. While referring the matter to a larger Bench, the Bench observed that in Mohd. Akhtar Hussain’s case, Section 31 Cr.P.C. was not noticed by this Court. It is to be pointed out that in Mohd. Akhtar Hussain’s case and Manoj’s case, the appellants who were convicted for different counts of offences arose out of a single transaction, favouring the exercise of discretion to the benefit*

*of the accused that the sentences shall run concurrently. Those decisions are not cases arising out of conviction at one trial of two or more offences and therefore, reference to Section 31 Cr.P.C. in those cases was not necessitated.*

*20. Under Section 31 Cr.P.C. it is left to the full discretion of the Court to order the sentences to run concurrently in case of conviction for two or more offences. It is difficult to lay down any straitjacket approach in the matter of exercise of such discretion by the courts. By and large, trial courts and appellate courts have invoked and exercised their discretion to issue directions for concurrent running of sentences, favouring the benefit to be given to the accused. Whether a direction for concurrent running of sentences ought to be issued in a given case would depend upon the nature of the offence or offences committed and the facts and circumstances of the case. The discretion has to be exercised along the judicial lines and not mechanically.*

*21. Accordingly, we answer the Reference by holding that Section 31 Cr.P.C. leaves full discretion with the Court to order sentences for two or more offences at one trial to run concurrently, having regard to the nature of offences and attendant aggravating or mitigating circumstances. We do not find any reason to hold that normal rule is to order the sentence to be consecutive and exception is to make the sentences concurrent. Of course, if the Court does not order the sentence to be concurrent, one sentence may run after the other, in such order as*

*the Court may direct. We also do not find any conflict in earlier judgment in Mohd. Akhtar Hussain and Section 31 Cr.P.C.”*

In the case in hand, though the petitioner has been convicted and sentenced in three different cases, but the fact remains that the allegations in all the three cases are same and the FIR also remains one, which emerges from the same incident.

Considering the provisions Section 427 CrPC in ***Jang Singh v. State of Punjab 2008(1) RCR (Criminal) 323***, Hon'ble the Apex Court has held that where a person has been convicted for two different offences, the Court while awarding the sentence has discretion to direct that such punishments shall run concurrently. The basic thumb rule is that concurrent sentences are to be awarded in case of single transaction and it is only in those circumstances when different transactions relating to offences are involved, sentences may not be allowed to run concurrently. Since the petitioner has not pressed these petitions on merits presumably on the ground that as against the awarded maximum sentence of two years, he has already undergone about 1 year and 11 months of sentence, he opted to come forward to seek intervention of this Court to run the sentences concurrently, awarded in three aforesaid different cases.

In view of the above, when the petitioner has not opted to argue the matter on merits, these petitions are dismissed as not pressed. However, having recourse to the provisions of

Section 427 Cr.P.C. and the law laid down by Hon'ble the Supreme Court in ***Jang Singh's*** case (supra), the sentences awarded to the petitioner in Police Challan No.2482 of 2008 (CRR-3370-2015) and in Police Challan No.2483 of 2008 (CRR-3373-2015) are ordered to run concurrently with sentence awarded in Police Challan No.2481 of 2008 (CRR-3367-2015).

March 18, 2016  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**