

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

**CRA-S-703-SB-2006 (O&M)
Date of decision : 20.01.2017**

Mukhtiar Singh

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

Present : Mr. S.S. Rana, Advocate
for the appellant.

Mr. S.K. Bansal, AAG, Punjab.

GURMIT RAM, J.

1. This appeal is on the regular board of this Bench at Sr. No.391 along with two other appeals. So, at the oral request of learned counsel for the appellant, present appeal is taken up today.

2. The learned counsel for the appellant at the very beginning of his submissions has contended that he does not press this appeal on merits. Rather his simple prayer as made in **CRM No.47236-2013** is that the sentences awarded to the appellant in case bearing FIR No.169 dated 25.12.2004 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act" - for short) Police Station, Sadar

Kotkapura and in case bearing FIR No.43 dated 21.05.2002, under Section 15 of the NDPS Act, Police Station Dehlon, District Ludhiana be ordered to run concurrently in both these cases.

3. The appellant was tried by the Court of learned Special Judge, Ludhiana in abovesaid criminal case bearing FIR No.43 dated 21.05.2002 and was awarded the sentence to undergo rigorous imprisonment for ten years along with fine of ₹1 lac, in default of payment of fine to undergo further rigorous imprisonment for six months.

Against this judgment of conviction and order of sentence, he preferred an appeal before this Court vide CRA-S-2978-SB-2009, which was dismissed by a Co-ordinate Bench of this court vide judgment dated 30.09.2013.

4. Appellant-herein (accused-Mukhtiar Singh) as per the record was also tried by the Court of learned Special Judge, Faridkot in abovesaid criminal case bearing FIR No.169 dated 25.12.2004 for the offence punishable under Section 15 of the NDPS Act and was awarded the sentence to undergo rigorous imprisonment for ten years along with fine of ₹1 lac, in default of payment of fine to undergo further rigorous imprisonment for six months. Against his conviction and sentence, he preferred the instant appeal before this Court which is pending for its adjudication.

5. The relevant provisions with regard to the above preposition are laid down in Section 427 of Cr.P.C. which reads as under:-

“Sentence on offender already sentenced for another offence:-

(i) 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.”*

Further in support of the above contention, the learned counsel for the appellant has referred to an authority as delivered by this Court in CRA-S-1575-SB-2006 and CRA-S-2499-SB-2007 decided on 22.11.2010. In the case in hand, if the abovesaid sentences awarded to the appellant are not ordered to run concurrently, then in that event, the appellant will have to undergo twenty years rigorous imprisonment, besides, imprisonment awarded to him in default of payment of fine, which would be too harsh as well as non-judicious.

As per the custody certificate, the appellant has already completed substantive sentence of ten years awarded to him in aforesaid FIR No.169 dated 25.12.2004 whereas in the abovesaid second criminal case bearing FIR No.43 dated 21.05.2002, he has undergone his actual sentence of six years, three months and four days as on 18.01.2017.

Then at the time of arguments, learned counsel for the appellant after going through the custody certificate has contended that appellant was also convicted in another case bearing FIR No.205 dated 10.10.2000 under Section 61(1)(14) of the Excise Act, Police Station Sidhwan Bet, but he was not aware of it at the time of filing abovesaid CRM No.47236-2013. He has requested that sentence imposed upon the appellant in this case under the said Excise Act may also be ordered to run concurrently with the abovesaid two sentences of the appellant.

In the light of the above discussion, the appeal stands dismissed but anyhow CRM No.47236-2013 stands accepted with the following observations:

That the substantive sentences awarded to the appellant in abovesaid criminal cases bearing FIR No.169 dated 25.12.2004, under Section 15 NDPS Act, Police Station, Sadar Kotkapura, FIR No.43 dated 21.05.2002 under Section 15 of NDPS Act, Police Station, Dehlon and FIR No.205 dated 10.10.2000 under Section 61(1)(14) Excise Act, Police Station Sidhwan Bet are ordered to run concurrently. So far as the sentence of fine is concerned, the appellant will have to undergo the sentences imposed upon him in default of payment of fine as ordered by the trial Courts concerned, separately.

This appeal is ordered to be separated from the other appeals, if any, preferred by the co-appellants of the present appellant with regard to aforementioned case bearing FIR No.169 dated 25.12.2004, Police Station Sadar, Kotkapura.

This appeal and CRM No.47236-2013 stand disposed of accordingly.

Since the main appeal has been disposed of, hence pending CRM, if any, also stands disposed of automatically having been rendered infructuous.

Intimation be sent to the quarter concerned for its strict compliance.

20.01.2017
Gaurav Sorot

(GURMIT RAM)
JUDGE

1. Whether reportable? Yes
2. Whether speaking / reasoned? Yes