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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : 13th APRIL, 2017

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CRL.M.C. 4681/2016

SATISH @ SHASTRI

..... Petitioner

Through : Mr.Dhan Mohan with Mr.Sarthak,
Advocates.

versus

THE STATE (GNCT OF DELHI)

..... Respondent

Through : Mr.Amit Gupta, APP.
SI Naresh Kumar, PS Uttam Nagar.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present petition under Section 482 Cr.P.C. read with Section 427 Cr.P.C. has been preferred on behalf of the petitioner for concurrent running of the sentence awarded in case bearing FIR No.114/2009 registered under Sections 307/120B/34 IPC at PS Dwarka and FIR No.207/2004 under Section 307/34 IPC at PS Uttam Nagar. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. Admittedly, the petitioner on conviction in case FIR No.207/2004 under Section 307 IPC registered at PS Uttam Nagar was sentenced to undergo RI for three years with fine ₹5,000/-. CrI.A. 312/2008 filed to challenge the conviction resulted in dismissal on 26.05.2014. Nominal roll dated 08.03.2017 reveals that the petitioner has undergone one

month and two days incarceration as on 07.03.2017 in case FIR No.207/2004. Presently, he is undergoing sentence in case FIR No.114/2009 registered under Sections 307/120B/34 IPC at PS Dwarka.

3. Undisputedly, the petitioner on conviction in case FIR No.114/2009 under Sections 307/120B/34 IPC at PS Dwarka was sentenced to undergo RI for seven years with fine ₹25,000/- by an order dated 10.09.2013. Crl.A. 1381/2013 filed to impugn the conviction was disposed of on 06.04.2016. Sentence Order was modified to the extent that default sentence for non-payment of fine would be SI for two months. Nominal roll dated 08.03.2017 reveals that the petitioner has undergone three years, eight months and thirteen days incarceration besides remission for one year, two months and twenty-seven days as on 07.03.2017 in case FIR No.114/2009.

4. In Crl.A.312/2008, it was observed that the sentence awarded could not be considered to be disproportionate to the facts and circumstances of the case.

5. At the time of disposal of Crl.A.1381/2013 also the conviction recorded in FIR No.207/2004 under Section 307 IPC at PS Uttam Nagar was taken into consideration. While hearing arguments on modification of Sentence Order, no prayer was made by the petitioner either before the Trial Court or the Appellate Court any time that the sentence awarded in FIR No.114/2009 should run concurrent with the sentence already awarded in case FIR No.207/2004 at PS Uttam Nagar.

6. In the present case, there are different incidents of different dates; the police stations are different. Both the offences were committed in different period of time; they were not related to each other. Crimes in both

the cases did not arise out of one and the same transaction. The offences were quite distinct.

7. The provisions of Section 427 Cr.P.C. were neither invoked in original cases nor in appeals. Apparently, inherent jurisdiction under Section 482 Cr.P.C. is not an appropriate remedy when neither the Trial Court nor this Court has exercised jurisdiction under Section 427 Cr.P.C. while passing the above referred judgments.

8. In the case of '*Mohd. Akhtar Hussain vs. Assistant Collector of Customs*', 1988 (4) SCC 183, Hon'ble Supreme Court recognised the basic rule of convictions arising out of a single transaction justifying concurrent running of the 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.

9. In case FIR No.207/2004, the petitioner had stabbed one PW-4 (Radhey Shyam) on 06.03.2004 with whom he was upset for having been awarded a contract. Eight injuries were noticed on his body by PW-10 (Dr.Pawan Gandhi) at the time of his medical examination. Nature of injuries was 'grievous' in nature.

10. In another case vide FIR No.114/2009 at PS Dwarka, the petitioner along with his associates - Hira Lal @ Lucky and Ravinder @ Kala had inflicted injuries to one Sunil Kumar on 23.02.2009 at village Kakrola. The victim had sustained 'grievous' injuries on various body parts detailed in MLC (Ex.PW-6/A).

11. Considering the past conduct of the petitioner whereby he indulged in repeated crime of similar nature, this Court finds no merit in the present petition to direct sentences in both the cases run concurrently.

12. The petition is dismissed.

(S.P.GARG)
JUDGE

APRIL 13, 2017 / *tr*

