

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

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CRM-M No.10999 of 2018

Date of Decision: April 30th, 2018

Dayal Chand

...Petitioner

Versus

Punjab State Warehousing Corporation, Punjab, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Mr. Vikas Bishnoi, Advocate
for Mr. Sumit Jain, Advocate
for respondents No.1, 3 and 4.

Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASI, J. (ORAL)

Prayer in this petition is for issuance of orders to run the sentence of the petitioner concurrently passed by Sub Divisional Judicial Magistrate, Mukerian, vide judgment dated 07.09.2015.

It is the contention of learned counsel for the petitioner that the petitioner had issued cheques, which were the subject matter of two separate complaints initiated by the respondent-Punjab State Warehousing Corporation (hereinafter referred to as 'Corporation'). He contends that these were in pursuance to and relatable to the agreement dated 04.10.2004. Although the petitioner has been convicted and sentence in these two complaints by judgments of conviction and orders of sentence dated 07.09.2015 (Annexure P-1 and P-2 respectively) passed by Sub Divisional Judicial Magistrate, Mukerian, but nothing has been mentioned with regard to the factum of the sentence being running concurrently or otherwise.

Appeals preferred by the petitioner stand dismissed by the Additional Sessions Judge, Hoshiarpur, vide judgments dated 29.08.2017 (Annexures P-3 and P-4 respectively). Counsel thus contends that the petitioner, left with no option, has moved this petition for grant of benefit of Section 427 Cr.P.C. read with Section 482 Cr.P.C. for ordering the two sentences to run concurrently. In support of this contention, he has placed reliance upon the judgment of Supreme Court in *V.K. Bansal Versus State of Haryana and others 2013(7) SCC 211* and contends that the prayer made by the petitioner in the present petition is covered by the ratio of the said judgment as the said case also relates to proceedings initiated under Section 138 of the Negotiable Instruments Act.

Counsel for the respondents, on the other hand, contends that the petitioner is not entitled to the benefit of the provisions of Section 427 Cr.P.C. as also the judgment of the Supreme Court, on which reliance has been placed. He, however, could not dispute the assertion of the counsel for the petitioner that these two cheques were issued by the petitioner in pursuance to the agreement dated 04.10.2004.

Having considered the submissions made by the counsel for the parties and in the light of the undisputed facts, this Court is of the considered view that the prayer made in the present petition is covered by the ratio of the judgment in *V.K. Bansal's case (supra)*.

In view of the above, the present petition is allowed.

Petitioner is granted the benefit of Section 427 Cr.P.C. read with Section 482 Cr.P.C. and the sentences in Complaint Nos.19 and 20 of 2005 decided on 07.09.2015 are hereby ordered to run concurrently.

In case the petitioner has already completed the term as per the orders passed today, he be released from custody forthwith on receipt of certified copy of this order.

Copy of this order be given ***dasti*** to the counsel for the petitioner under signatures of Bench Secretary of this Court.

April 30th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No