

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

**Crl. Misc. No. M-11178 of 2018 (O&M)
Date of decision: July 31, 2018**

Sahibjit Singh @ Sahibi Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

Heard.

The petitioner along with Jang Singh and Jaswant Singh was convicted and sentenced to undergo rigorous imprisonment for three years for the offences punishable under Section 399 read with Section 149 of Indian Penal Code and also rigorous imprisonment for three years for the offence punishable under Section 5 of Explosive Substance Act, 1908. The appeal against judgment of conviction filed by the petitioner was dismissed.

After conviction, the sentence of the co-accused Jaswant, who was also awarded similar sentence was suspended by the trial Court vide order dated 29.11.2002 with the observations that his sentence does not exceed three years. However, in judgment of the trial Court, this fact is nowhere mentioned that the sentence awarded to the convicts will run concurrently.

Jang Singh and Jaswant Singh, co-convicts filed petition

bearing CRM No. M-35350 of 2015, wherein the sentence of Jang Singh

and Jaswant Singh was ordered to run concurrently. The relevant observation in order dated 04.12.2015 passed in that petition is reproduced as follows:

“It is not in dispute that the conviction for different offences is in the same FIR and in the same trial. It is further apparent from the sentencing order dated 29.11.2002 that the learned trial court itself is aware that the sentence awarded is not exceeding three years and therefore, suspended the sentence till 15.1.2003 to enable the petitioners-convicts to file an appeal before this Court. Had the situation been that the sentences were to run consecutively then the period of sentence would have been four years for Jang Singh and six years for Jaswant Singh and, therefore, no case for suspension of sentence (punishment being more than three years) would have been made out. Therefore, it is evident that the clear intention of the trial court was that the sentences were to run concurrently and not consecutively. It is a case of inadvertent omission for which petitioners-convicts should not be put to unnecessary harassment.

Accordingly, present petition is allowed and it is ordered that the sentence imposed upon the petitioners by the trial Court vide order dated 29.11.2002 and as upheld by this Court in CRA-87-SB of 2003 vide order dated 24.1.2013 shall run concurrently”.

The observations in the above case covers the plea as raised by the petitioner, as such, being a covered case the sentence of the petitioner awarded vide judgment dated 29.11.2002 is ordered to run concurrently.

This petition stands disposed of accordingly.

(SURINDER GUPTA)
JUDGE

July 31, 2018
Jyoti-II

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No