

CRR No.4333 of 2017 (O&M)
CRR No.4439 of 2017 (O&M)
CRR No.4440 of 2017 (O&M)
CRR No.4388 of 2017 (O&M)

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235 (4 Cases)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No.4333 of 2017 (O&M)
Date of Decision: 07.03.2018

Reshma Devi and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CRR No.4439 of 2017 (O&M)

Rajbir and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CRR No.4440 of 2017 (O&M)

Reshma Devi and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CRR No.4388 of 2017 (O&M)

Rajbir and another

..... Petitioners

Versus

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..... Respondent

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CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Manoj Kumar Pundir, Advocate,
for the petitioner(s).

Mr. Manish Bansal, D.A.G., Haryana.

SUDIP AHLUWALIA, J. (ORAL)

CRM No.7633 of 2018 in CRR No.4440 of 2017 &
CRM No.7630 of 2018 in CRR No.4439 of 2017:

Notice of the applications.

[2]. On the asking of the Court, Mr. Manish Bansal, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent. Let copies of the applications be supplied to him during the course of the day.

[3]. These are the applications moved under Section 427 read with Section 482 of the Code of Criminal Procedure praying for concurrent running of various sentences awarded to the applicant(s)-petitioner(s) by the Court of Ld. Judicial Magistrate First Class, Yamuna Nagar, in two different F.I.Rs., bearing F.I.R. No.178, dated 22.07.2008 under Sections 420, 467, 468, 469, 471, 506, 120-B and 34 of the Indian Penal Code, registered at Police Station Sadar Yamuna Nagar, and F.I.R. No.179, dated 23.07.2008 under Sections 420, 467, 468, 469, 471, 506, 120-B and 34 of the Indian Penal Code, registered at Police Station Sadar Yamuna Nagar. Vide judgments and orders dated 01.05.2014/02.05.2014, the applicant(s)-petitioner(s) have been convicted under Sections 420 and 120-B of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a

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period of two years along with fine of ₹500/- (Rupees Five Hundred Only) each in both the F.I.Rs. and in default thereof they are further sentenced to undergo simple imprisonment for a period of one-fourth of the maximum punishment prescribed as per provisions of law.

[4]. The contention of the applicant(s)-petitioner(s) before this Court is that in the circumstances, the total period of sentence awarded to them would come to four years if they were to run consecutively, and therefore, the prayer for a direction that the sentences so awarded to them to run concurrently against them.

[5]. In this regard, reliance has been placed on a decision of Hon'ble Rajasthan High Court in which, relying upon various earlier decisions of Hon'ble Supreme Court in "State of Punjab Vs. Madan Lal", AIR 2009 SC (Supp) 2836, "V.K. Bansal Vs. State of Haryana and others", 2013 Cr.L.J. 3986, "Shyam Pal Vs. Dayawati Besoya and another" AIR 2016 SC 5021 and "Ammavasai and another Vs. Inspector of Police and others", AIR 2000 SC 3544, the sentences awarded to the concerned petitioner in as many as 32 cases were ordered to be run concurrently by observing *inter alia* :-

"Having considered the facts and circumstances of the present case, offence involved, sentences awarded, period of detention of the petitioner as on date and the law laid down by the Hon'ble Supreme Court in State of Punjab Vs. Madan Lal, V.K. Bansal vs. State of Haryana & Ors., Shyam Pal vs. Dayawati Besoya & Anr. and Ammavasai & Anr. vs. Inspector of Police &

*Ors. (supra), I am of the considered view that it would not be inconsistent with the administration of criminal justice if the petitioner is allowed the benefit of discretion contained in section 427 of the Code to meet the ends of justice. However, as per the law laid down by the Hon'ble Supreme Court in **V.K. Bansal vs. State of Haryana and Ors. and Shyam Pal vs. Dayawati Besoya and Anr.** (supra), the direction for concurrent running of sentences would be limited only to the substantive sentences alone.*

In such circumstances, the present misc. petition is allowed and it is ordered that the substantive sentences awarded to the petitioner in the above referred 32 cases would run concurrently, however, the petitioner will have to serve default sentences as the provisions of section 427 of the CrPC do not permit a direction for concurrent running of substantive sentences with the sentences awarded in default of payment of fine/compensation. The sentences, which the petitioner has been directed to undergo in default of payment of fine/compensation shall not be effected by this direction and if the petitioner has not paid the fine/compensation as directed by the trial courts, the said sentences would run consecutively. Needless to say, if the petitioner pays the fine/compensation now, he is not required to undergo default sentences (sentences awarded by the trial courts in default of payment of fine/compensation)."

[6]. In "**Anil Kumar Vs. State of Punjab**" 2017(1) R.C.R. (Criminal) 691, the Hon'ble Apex Court had similarly allowed an appeal for concurrent running of sentences in two different cases against the

appellant after he was first convicted under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), and thereafter, subsequently under Section 27(b)(ii) and Section 28 of the Drugs and Cosmetics Act, 1940 after observing *inter alia* :-

“7. After referring to V.K. Bansal's case, in ***Benson v. State of Kerala, 2016(4) R.C.R. (Criminal) 602 : (2016) 10 SCC 307 : 2016 (9) Scale 670***, this Court directed the substantive sentences imposed on the appellant Benson to run concurrently. The appellant therein was convicted for the offences punishable under Section 379 and Section 414 read with Section 34 I.P.C. in at least eleven cases. By a separate judgment, the appellant was convicted and sentenced in each of the aforesaid cases and total length of sentences in aggregate was around nineteen years.

8. In the present case, the appellant was earlier convicted under section 22 NDPS Act and subsequently convicted under Section 27(b)(ii) and Section 28 of the Drugs and Cosmetics Act, 1940. Considering the nature of the offences for which the appellant was convicted and the facts and circumstances of the case, we deem it appropriate to direct that the sentences imposed on the appellant in FIR No.37 and Complaint No.638 shall run concurrently. However, the fine amount and the default sentence or sentences are maintained. If the fine amount is not paid, the default sentence will run consecutively and not concurrently.

9. The substantive sentences imposed on the

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appellant are ordered to run concurrently and the appeal is thus allowed.”

[7]. In the given circumstances and relying on the ratio of the decision of the Hon'ble Supreme Court in **Anil Kumar's case (supra)**, the present applications praying for concurrent running of imprisonment sentences awarded to the applicant(s)-petitioner(s) for the offences under Sections 420 and 120-B of the Indian Penal Code are allowed. No alteration shall, however, be made qua the fine part of the sentence and the petitioners shall have to undergo the prescribed period of imprisonment in the event of their failure to pay the fine imposed.

[8]. Disposed off.

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Vide this common order, **CRR No.4333 of 2017** titled **Reshma Devi and another Vs. State Haryana**, **CRR No.4439 of 2017** titled **Rajbir and another Vs. State of Haryana**, **CRR No.4440 of 2017** titled **Reshma Devi and another Vs. State Haryana** and **CRR No.4388 of 2017** titled **Rajbir and another Vs. State of Haryana** are being decided.

[2]. Heard.

[3]. No merits.

[4]. The offences imputed to the petitioner(s) have been proven beyond doubt, because all of those are based on documentary evidence, and there is no apparent perversity in the matter of appreciation of such evidence by the Ld. Trial Court and its scrutiny by the Lower Appellate

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Court.

[5]. This Court also finds no justification to reduce the sentences awarded to the petitioner(s), which were for a period of two years each for the offences punishable under Sections 420 and 120-B of the Indian Penal Code, particularly considering that the same type of offences were committed by them in a very quick succession on two separate dates, being 08.08.2007 and 31.08.2007, against two different purchasers.

[6]. For the aforesaid reasons, the Court finds no merit in these petitions, which are accordingly dismissed.

07.03.2018
Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No