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

+ **CRL.M.C. 2979/2016**

MUSA SINGH Petitioner
Through Mr.Ajay Verma & Ms. Katyaini, Advocates

versus

STATE Respondent
Through Mr. K.S. Ahuja, APP for State

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL

% **ORDER**
07.09.2018

1. The short issue involved in the present petition concerns the awarding of ‘consecutive’ life sentences by the trial Court contrary to Section 31 of the Code of Criminal Procedure 1973 (Cr PC).

2. The facts relevant to the issue are that by the order on sentence dated 31st March 2010, after convicting the Petitioner by the judgment dated 27th March 2010, the trial Court awarded him two ‘consecutive’ life sentences, one for the offence punishable under Section 302 IPC and Section 377 IPC apart from the fine amounts.

3. By the judgment dated 8th July 2013 in CrI. A.1053/2010, a Division Bench of this Court affirmed the said order of conviction as well as sentence by the trial Court.

4. The Court’s attention has been drawn to Section 31 Cr PC and the decision of a

Constitution Bench of the Supreme Court in *Muthuramalingam v. State* (2016) 8 SCC 313. Para 35 of the said decision which would squarely apply in the facts and circumstances reads as under:

“35. We may, while parting, deal with yet another dimension of this case argued before us namely whether the Court can direct life sentence and term sentences to run consecutively. That aspect was argued keeping in view the fact that the appellants have been sentenced to imprisonment for different terms apart from being awarded imprisonment for life. The Trial Court’s direction affirmed by the High Court is that the said term sentences shall run consecutively. It was contended on behalf of the appellants that even this part of the direction is not legally sound, for once the prisoner is sentenced to undergo imprisonment for life, the term sentence awarded to him must run concurrently. We do not, however, think so. The power of the Court to direct the order in which sentences will run is unquestionable in view of the language employed in Section 31 of the Cr.P.C. The Court can, therefore, legitimately direct that the prisoner shall first undergo the term sentence before the commencement of his life sentence. Such a direction shall be perfectly legitimate and in tune with Section 31. The converse however may not be true for if the Court directs the life sentence to start first it would necessarily imply that the term sentence would run concurrently. That is because once the prisoner spends his life in jail, there is no question of his undergoing any further sentence. Whether or not the direction of the Court below calls for any modification or alteration is a matter with which we are not concerned. The Regular Bench hearing the appeals would be free to deal with that aspect of the matter having regard to what we have said in the foregoing paragraphs.”

5. In the trial Court awarded the Peititioner life sentence for the offence punishable under Section 302 IPC together with fine and then awarded again life sentence with fine for the offence punishabe under Section 377 IPC. This was not a case of a term sentence followed by a life sentence but a life sentence followed by another life sentence. The trial Court then ordered the said two sentences to run concurrently and that was plainly impermissible in view of the above decision of

the Supreme Court explaining Section 31 Cr PC.

6. Accordingly, the order on sentence passed by the trial Court is modified and it is directed that the two life sentences awarded to the Petitioner will run concurrently with other term sentences awarded by the trial Court for the other offences.

7. The petition is disposed of accordingly.

S. MURALIDHAR, J.

VINOD GOEL, J.

SEPTEMBER 07, 2018

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