

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 973 of 2019

Momin @ Mansur S/o Sakur Ali Aged About 30 Years Occupation Driver,
R/o Village Basen, Police Station Rajpur District Balrampur
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Of Home Department (Jail), Mahanandi Bhawan, Mantralaya, Atal Nagar, Naya Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Jail Superintendent Central Jail Ambikapur, District Surguja Chhattisgarh.

---- Respondents

For the Petitioner : Shri Syed Majid Ali, Advocate.

For the Respondents/State : Shri Arjit Tiwari, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-09-2019

Heard.

1. This writ petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate direction.
2. It is submitted by the learned counsel for the petitioner that the petitioner was convicted by the Sessions Judge, Jashpur in Sessions Trial No. 74 of 2011 vide judgment dated 19.3.2012 for the offences under Sections 395, 397, 398 and 460 and sentenced to undergo rigorous imprisonment for 7 years, 10 years, 10 years and 7 years and to pay fine of Rs.1,000/- each, in default of payment of fine, to further undergo RI for 1-1 month, respectively with a direction to run all the sentences concurrently. In another Sessions Trial No. 72 of 2012, the same Court vide judgment dated 13.2.2013 has convicted the petitioner for the offence under Section 397 of the IPC and sentenced him to undergo

rigorous imprisonment for 10 years and to pay fine of Rs.1,000/-, in default of payment of fine, to further undergo RI for 1 month. It is further submitted that no order has been passed by the Sessions Court in the subsequent trial for concurrent running of the sentence of conviction in both the cases, therefore, this petition has been filed praying for issuance of such direction so that the petitioner gets benefit of concurrent of sentences in both the cases against him.

3. Learned counsel for the State/respondents opposes the submissions and the grounds raised in the petition.
4. Heard learned counsel for the parties and perused the documents.
5. After considering the submissions made by both the parties and perusing the documents filed alongwith the petition, I am of this view that the trial Court has authority to issue a direction for concurrent running of the sentences as it is provided under Section 427(1) of the Cr.P.C. Section 427(1) of the Cr.P.C is reproduced as under:

'427(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.'

6. As there is no stage left for making such prayer by the petitioner before any forum, therefore, this prayer can be entertained in this petition for

the reason that there is a statutory remedy available under Section 427(1) of Cr.P.C. to direct concurrent running of sentences in more than one conviction against a person. Therefore, I feel inclined to dispose of this petition with the following direction:

'The subsequent sentence imposed upon the petitioner in Sessions Trial No. 74 of 2011 vide judgment dated 19.3.2012 shall run concurrently with the sentence imposed upon the petitioner in Sessions Trial No.72 of 2012 vide judgment dated 13.2.2013 by the Sessions Judge, Jashpur.'

7. Accordingly, the petition is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge