

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 243 OF 2019

Smt. Deepa Dinesh Mandrekar
w/o late Mr. Dinesh Mandrekar
aged 39 years,
Convict Prisoner No.05/16,
Presently lodged at Modern Central Colvale Jail
Colvale Goa.

... Petitioner

Versus

1. Bhatagram Urban Co-operative
Credit Society Ltd.,
Represented by its C.E.O.
Shri Sanjay Gajanan Parmekar,
having its branch at Bordem,
Bicholim Goa.

2. Public Prosecutor,
High Court building, AG's Office,
High Court,
Panaji Goa.

... Respondents

Mr. T. George John, Advocate for the Petitioner.

Mr. Deepak Gaonkar, Advocate for Respondent No.1.

Mr. P. Faldessai, Addl. Public Prosecutor for Respondent No.2.

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date:- 6th January, 2020

ORAL JUDGMENT (Per M. S. Sonak, J)

Heard Mr. T. George John, learned counsel for the Petitioner, Mr. D. Gaonkar, learned counsel for Respondent No.1 and Mr. P. Faldessai, learned Addl. Public Prosecutor for Respondent No.2.

2. Rule. Rule is made returnable forthwith at the request and with the consent of the learned counsel for the parties.

3. The learned counsel appearing for the respective Respondents waive service.

4. Mr. T. George John, learned counsel for the Petitioner submits that notwithstanding what is prayed for in the petition, the Petitioner, will now seek an order that the sentence in Criminal Case No.524/NIA/138/2014/A and sentence in Criminal Case No.391/NIA/138/2016/C imposed by the Judicial Magistrate First Class, Bicholim, ought to run concurrently and not consecutively since, according to him the offences in both these matters arose out of one and same transaction, namely repayment of loan to the Respondent No.1 as against the Loan Account No.12113.

5. He relies on ruling of this Court in ***Krishna Venkatesh and***

Anr. Vs Balbhim Malvankar & Ors in Criminal Writ Petition No.169 of 2019 decided on 11th September, 2019.

6. Mr. Gaonkar, learned counsel for Respondent No.1 fairly accepts that the issue, in so far as the aforesaid two criminal cases are concerned stands covered in favour of the Petitioner by virtue of the decision of this Court in *Krishna Venkatesh* (supra). He however points out that the conviction and sentence recorded in Criminal Case No.191/NIA/138/2016/B relates to the issue of gold Loan Account No.21723. He therefore submits that the said case and the conviction recorded therein relates to the different transaction altogether. This position as noted earlier, has not been disputed by Mr. T. George John, learned counsel for the Petitioner.

7. Accordingly, we dispose of this petition by directing that the sentences in Criminal Case No.524/NIA/138/2014/A and Criminal Case No.391/NIA/138/2016/C shall run concurrently and not consecutively. However, no relief is granted in so far as the sentence in Criminal Case No.191/NIA/138/2016/B is concerned.

8. In granting the aforesaid relief, we follow the decision in the case of *Krishna Venkatesh* (supra).

9. We however clarify that the direction for concurrent running of sentences shall apply only to the substantive sentence and not to the sentences ordered in default for payment of fine/compensation. This is consistent with what has been held by this Court in paragraph 28 of the decision in *Krishna Venkatesh* (supra).

10. Rule in this petition is disposed of in the aforesaid terms. There shall be no order as to costs.

11. All concerned to act on the basis of the authenticated copy of this order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

at*