

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30624-2016 (O&M)
Date of Decision: February 1, 2023

Sardool Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rakesh Dhiman. Advocate for the petitioner.
Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 482 Cr.P.C to be read with Section 427 Cr.P.C, direction is sought that two sentences awarded to the petitioner in two different cases be ordered to run concurrently.

2. Petitioner has been awarded sentences in two separate cases as per following details:-

FIR No.	Conviction Under Section	Imprisonment	Date of Conviction
FIR No.164 dated 01.07.2001, Police Station Sadar Muktsar, District Muktsar	Section 326 IPC	3 years Rigorous Imprisonment	30.11.2004
FIR No.162 dated 09.05.2005, Police Station Sadar Muktsar, District Muktsar	Section 148 IPC	2 years Rigorous Imprisonment	04.06.2010.
	Section 307 IPC	5 years Rigorous Imprisonment	
	Section 302/149 IPC	Life Imprisonment	

3. Appeal filed in case FIR No.164 dated 01.07.2001, wherein the petitioner was convicted under Section 326 IPC was dismissed by High Court on 01.02.2016. While admitting the appeal, his sentence was

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suspended and on dismissal of the appeal, he was asked to surrender. In FIR No.162 dated 09.05.2005, wherein petitioner was sentenced to Life Imprisonment, his appeal was dismissed by the High Court on 23.09.2015 and Special Leave Petition filed by the petitioner was dismissed on 22.02.2016 by Hon'ble Supreme Court.

4. Petitioner submits that he is 61 years of age, undergoing sentences in two FIRs and so, the two sentences be directed to run concurrently.

5. The respondent- state has opposed the petition by submitting that two sentences having been imposed upon the petitioner in two different cases for different occurrences, so, they cannot be directed to run concurrently as per Section 427 Cr.P.C.

6. I have considered submission of both the sides and have appraised the record.

7. It is revealed that in case FIR No.164 dated 01.07.2001, the occurrence had taken place on 29.06.2001 and petitioner was attributed to have caused an injury with Gandasa on the forehead of complainant Gurdeep Singh for not withdrawing the civil suit relating to land. In this FIR, his conviction was recorded on 30.11.2004 under Section 326 IPC as noted earlier. It is after the recording of this conviction that another FIR No.162 dated 09.05.2005 was registered in respect of an occurrence which took place on 08.05.2005 and in which one Balkaran Singh was murdered. Petitioner was convicted for causing firearm injury to Inderjit Singh under Section 307 IPC; and for also causing murder of Balkaran Singh along with co-accused, for which he was convicted on 4.6.2010

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under Section 302 IPC read with Section 149 IPC.

8. The question is that whether in the above facts and circumstances, two sentences can be directed to run concurrently or not. Learned counsel for the petitioner has relied upon ***Pritam Singh Vs. State of Punjab, 2007(4) RCR (Criminal) 712***, wherein accused was convicted in two different cases under Narcotic Drugs and Psychotropic Substances Act. In one case, he was sentenced to 10 years imprisonment and in another for 15 years imprisonment, and thus, he was to undergo 25 years rigorous imprisonment. A Division Bench of this High Court held that it will be harsh and so, sentence was directed to run concurrently.

9. Section 427 Cr.P.C reads as under:-

“(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.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.”

10. A similar question was considered by Hon'ble Supreme Court in ***Mohd. Zahid vs. State through NCB, Criminal Appeal N: 1457 of 2021 decided on 07.12.2021***, as to whether the sentences imposed against the appellant- accused by two different Courts in two different trials but against the same accused/ person should run concurrently or consecutively. After referring to Section 427 Cr.P.C., and the various precedents, Hon'ble Supreme Court concluded as under:-

“9. Thus from the aforesaid decisions of this Court, the principles of law that emerge are as under:

(i) if a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the expiration of the imprisonment to which he was previously sentenced;

(ii) ordinarily the subsequent sentence would commence at the expiration of the first term of imprisonment unless the court directs the subsequent sentence to run concurrently with the previous sentence;

(iii) the general rule is that where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427 of Cr.PC;

(iv) under [Section 427](#) (1) of [Cr.PC](#) the court has the power and discretion to issue a direction that all the subsequent sentences run concurrently with the previous sentence, however discretion has to be exercised judiciously depending upon the nature of the offence or the offences committed and the facts in situation.

However, there must be a specific direction or order by the court that the subsequent sentence to run concurrently with the previous sentence.”

[Bold portion emphasised by this court]

11. In the case before Hon’ble Supreme Court, the appellant had been sentenced to undergo 12 years rigorous imprisonment for offences under Sections 23 and 21 of the NDPS Act in first case FIR no.134/1999 by Amritsar Court; whereas he was sentenced to ten years rigorous imprisonment in second case FIR No.43/1999 at New Delhi for committing offence under Section 29 read with Section 21-C of NDPS Act. By applying the legal principles as culled out above to the facts, Hon’ble Supreme Court rejected the prayer to direct the two sentences to run concurrently.

12. It is, thus, clear that as a the general rule, where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427 of Cr.PC.

13. In the present case, as have been noticed above, the two sentences have been imposed upon the petitioner by two different Courts for two different occurrences. In case FIR No.164 dated 01.07.2001, occurrence had taken place on 29.06.2001 and despite conviction recorded in that case on 30.11.2004, the petitioner committed offence of second FIR No.162 dated 09.05.2005, in which occurrence took place on 08.05.2005 and for which he was convicted on 04.06.2010.

14. Having regard to the aforesaid facts and circumstances of the cases and applying the legal principles enunciated by Hon’ble Supreme

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Court, it is held that the petitioner is not entitled to the claimed relief of direction to run two sentences concurrently. As such, petition is hereby dismissed.

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No