

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45666-2021
Date of Decision: 25.07.2023

Ramandeep Singh

. . . . Petitioner

Vs.

State of Punjab and another

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Naresh Kaushik, Advocate, for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 to be read with Section 427 Cr.P.C., petitioner has prayed for directing the sentences and convictions recorded in as many as 11 cases, to run concurrently.

2. Petitioner was convicted and sentenced in following 11 cases: -

Sr. No.	Case details	Under Sections	Sentence
1	FIR No.77 dated 17.04.2013 U/s 406/420/34 of IPC, PS City Rajpura, Patiala	420 IPC	RI 03 years, Fine ₹1000, ID RI 01 Month vide order dated 01.09.2018 in the Ld. Court of Sh. Gurdev Singh, JMIC, Rajpura.
2.	FIR No.52 dated 15.03.2012 U/s 420 of IPC, PS City, Mansa	420 IPC	RI 03 years, Fine ₹200 (fine paid in court) vide judgment dated 01.03.2017 by the ld. Court of S. KS Cheema, JMIC, Mansa
3.	Comp. No.537 dated 20.03.2013 U/s 138 NIC Act, PS Urban Estate, Patiala	138 NI Act	RI 01 years and compensation equivalent to the cheque amount vide judgment dated 03.03.2017 in the Ld. Court of Sh. Inderjit Singh, JMIC, Patiala
4.	COMA/1139/2013 Anita Vs. Ramandeep Singh, in complaint No.25 RT dated	420 IPC	RI 01 year vide judgment dated 24.04.2017 by the ld. Court of Sh. Amit Bakshi.

	<i>07.03.13/15 U/s 420 IPC, PS City Rajpura</i>		
5.	<i>COMA/1076/2013 Jaswinder Kaur Vs. Ramandeep Singh, in complaint No.176-T(A) dated 11.01.2013/19.08.15 U/s 138 NI Act, PS City Rajpura</i>	<i>138 NI Act</i>	<i>RI for 2 years vide judgment dated 02.05.2017 by the ld. Court of Sh. Karandeep Kaur, JMIC, Rajpura</i>
6.	<i>File No.6-A/17.02.2015 CIS No.NACT-45-2016 titled as Tarlochan Singh Vs. Sukhpreet Kaur U/s 138 NI Act</i>	<i>138 NI Act</i>	<i>RI for 3 years fine ₹10,000/- by the ld. Court of Ms. Daljit Kaur, JMIC, Mansa</i>
7.	<i>File No.108/20.02.2013 CIS NACT-459-2014 titled as Tarlochan Singh Vs. Ramandeep Singh</i>	<i>138 NI Act</i>	<i>RI for 2 years vide judgment dated 03.05.2017 by the ld. Court of Ms/ Daljit Kaur, JMIC, Mansa</i>
8.	<i>File No.107/20.02.2013 CIS No.NACT-460-2014 titled as Tarlochan Singh Vs. Ramandeep Singh u/s 138 NI Act</i>	<i>138 NI Act</i>	<i>RI for 2 years vide judgment dated 03.05.2017 by the ld. Court of Ms/ Daljit Kaur, JMIC, Mansa</i>
9.	<i>FIR No.64 dated 11.07.2016 U/s 406, 420 IPC & 24 Foreign Act, PS Phase-8, SAS Nagar, Mohali</i>	<i>406, 420 IPC</i>	<i>U/s 406, 420 convicted and sentenced as period already undergone vide judgment dated 07.09.2017 by the ld. Court of Sh. Harpreet Singh, JMIC Mohali.</i>
10.	<i>Fir No.136 dated 24.10.2015 U/s 406, 420 of IPC, PS Urban Estate, Patiala</i>	<i>406, 420 IPC</i>	<i>RI for 2.5 years with fine of ₹1000/- ID SI 10 days in U/s 420 of IPC, RI for 1.5 years in U/s 406 IPC (All sentences shall run concurrently) vide judgment 07.04.2018 by the ld. Court of Raman Kumar, ACJM, Patiala.</i>
11.	<i>FIR No.187 dated 26.11.2013 U/s 406, 420 of IPC, PS Urban Estate, Patiala</i>	<i>406, 420 IPC</i>	<i>RI for 3 years with fine of Rs.500/- ID RI 15 days in U/s 420 of IPC vide judgment dated 04.04.2019 by the ld. Court of Sh. Randeep Kumar, JMIC, Patiala.</i>

3. It is contended by Ld. Counsel that in some of the cases, transaction is the same and, therefore, the sentence should be directed to run concurrently as per Section 427(1) Cr.P.C.

4. The respondents have opposed the petition by raising the preliminary objection that petition itself is not maintainable, inasmuch as no appeal/revision was filed against any by the convictions and, so petitioner cannot approach this Court to get the sentences run concurrently by taking the aid of Section 482 Cr.P.C.

5. It has been conceded during arguments by learned counsel for the petitioner that no appeal or revision was filed against any of the 11 convictions recorded by the Courts below.

6. In the aforesaid facts and circumstances, the question is whether the present petition is maintainable?

7. This aspect was considered by Hon'ble Supreme Court in ***M.R. Kudva Vs. State of Andhra Pradesh, 2007(1) RCR (Criminal) 868***. In that case, conviction of the appellant was recorded in two cases in respect of two distinct and different offences. Separate appeals filed against those convictions were dismissed by the High Court. Special Leave Petitions filed against these, were dismissed by Hon'ble Supreme Court and it is only thereafter that an application under Section 482/427 Cr.P.C. was filed in the High Court praying for sentences imposed in the two cases to run concurrently. Said application was rejected by the High Court, against which order, appeal was preferred before Hon'ble Supreme Court.

8. In above cited ***M.R. Kudva's case***, appellant had placed reliance on ***Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti Vs. Assistant Collector of Customs (Prevention), Ahmedabad 1988(4) SCC***

183; and *Ammavassi Vs. Inspector of Police, Valiyanur*, AIR 2000 Supreme Court 3544.

9. In *Mohd. Akhtar's* case (supra), it had been held by Hon'ble Supreme Court that basic rule of thumb over the years has been the so-called single transaction rule for concurrent sentences. If a given transaction constitutes two different offences under two enactments, generally it is wrong to have consecutive sentences and rather, it is proper and legitimate to have concurrent sentences. However, this rule has no application, if the transaction relating to the offences is not the same or the facts constituting the two offences are quite different.

10. In *Ammavassi's* case (Supra), the appellants were convicted for four different cases and they claimed benefit of Section 427 Cr.P.C. in order to avoid undergoing imprisonment of total period of 28 or 35 years of jail. Hon'ble Supreme Court took the view that 14 years of rigorous imprisonment would meet the ends of justice. It is clear that though Hon'ble Supreme Court had applied provision of Section 427 Cr.P.C., but still made the sentences in two cases to run concurrently.

11. With the above background, Hon'ble Supreme Court in *M.R. Kudva's case* (Supra), while dismissing the appeal for concurrent sentence, held as under: -

"9. The said decisions, therefore, are not the authorities for the proposition that it is incumbent upon the court to direct in a case of this nature that both the sentences shall run concurrently and not consecutively.

10. However, in this case the provision of Section 427 of the Code was not invoked in the original cases or in the appeals. A separate application was filed before the High Court after the special leave petitions were dismissed. Such an application, in

our opinion, was not maintainable. The High Court could not have exercised its inherent jurisdiction in a case of this nature as it had not exercised such jurisdiction while passing the judgments in appeal. Section 482 of the Code was, therefore, not an appropriate remedy having regard to the fact that neither the Trial Judge, nor the High Court while passing the judgments of conviction and sentence indicated that the sentences passed against the appellant in both the cases shall run concurrently or Section 427 would be attracted. The said provision, therefore, could not be applied in a separate and independent proceeding by the High Court. The appeal being devoid of any merit is dismissed.”

12. Thus, the view taken by Hon'ble Supreme Court in **M.R. Kudva's** case (supra) leave no scope of doubt with regard to the invoking of inherent power of Section 482 Cr.P.C. in isolation to entertain application for making the sentences to run concurrently.

13. The said aspect has also been considered by a Full Bench of this High Court in **Jang Singh Vs. State of Punjab, 2008(1) RCR (Criminal) 323**, wherein this Court noticed that the said issue with regard to the maintainability of the petition under Section 482/427 Cr.P.C. had also been agitated before number of High Courts. Specific reference was made to the decision of Full Bench of Madhya Pradesh High Court in **Sher Singh Vs. State of M.P., 1989(1) RCR (Criminal) 696 (MP)**, wherein it had been held that High Court in exercise of its inherent power under Section 482 Cr.P.C. can direct running of the previous and subsequent sentences concurrently, even if no order is passed by the sentencing Court in this regard and where the conviction has also become final. The similar view was also taken by Full Bench of Allahabad High Court in **Muliam Singh Vs. State 1974**

CriLJ 397. However, contrary view was taken by Full Bench of Delhi High Court in **Gopal Dass Vs. State** AIR 1978 Delhi 138.

14. After referring to the above referred Full Bench authorities of different High Courts and various other authorities taking different views by the different High Courts and the view expressed by Hon'ble Supreme Court in **M.R. Kudva's** case (Supra), Full Bench of this Court in **Jang Singh's** case (Supra) concluded as under: -

*“The consensus of the judicial opinion, as may emerge from different judgments passed by various High Courts and the Hon'ble Supreme Court, seems to be that normal rule, as per Section 427 Criminal Procedure Code, is that, a person who is undergoing a sentence of imprisonment and is sentenced on a subsequent conviction to an imprisonment or an imprisonment for life, then such imprisonment or imprisonment of life shall commence after the expiration of the imprisonment, to which he has been previously sentenced. This, however, would not be so if the Court directs that the subsequent sentence shall run concurrently with the previous sentence. **Such direction to make the sentences to run concurrently, as per various decisions noted above, can be exercised by the trial Court or by the appellate Court or a revisional Court at the time of exercising appellate or revisional jurisdiction as well. However, if the trial Court does not pass any such direction for making the sentences to run concurrently and appeal or revision against said decision is also decided, then it may not be open for a person to seek such direction for making the sentences to run concurrently by moving an application under Sections 482/427 Criminal Procedure Code.** The view taken by of the High Courts that such an application can be entertained while exercising inherent powers under Section 482 Criminal Procedure Code would no more appear to be a good law in view of the decision of the Hon'ble Supreme Court in **M.R. Kudva** case (supra). We are, thus, bound to take this view that this discretion though available with*

the trial Court, appellate Court or the revisional Court while holding trial or entertaining appeal or revision but would not be so available to be exercised in isolation when application in this regard is moved either under sections 482 or 427 Criminal Procedure Code.”

15. In view of the aforesaid legal position, present petition filed under Section 482 read with Section 427 Cr.P.C., seeking concurrency of sentence in 11 cases, is held to be not maintainable. The legal position is clear that once the judgments of conviction and sentences have attained finality in different cases, separate petition under Section 482 Cr.P.C. for concurrency of sentence is not maintainable, therefore, there can be no hesitation in holding that present petition is not maintainable.

16. Consequently, present petition is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

25.07.2023

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No