

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4474 OF 2024

Hashim Bashir Kalolikar .. Petitioner
Versus
State Of Maharashtra .. Respondent

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Mr. Manish Mirpuri, for the Petitioner.

Mr. J. P. Yagnik, A.P.P. for the State/Respondent.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 13th DECEMBER, 2024

P.C:-

1. While raising a challenge to the penalty imposed on being convicted by the Metropolitan Magistrate in three distinct cases, arising out of the same transaction, and being aggrieved by the default sentences to be undergone for failure to pay the compensation in each of the cases, the counsel for the Petitioner would rely upon the decision of the Hon'ble Apex Court in case of **V. K. Bansal V/s. State of Haryana And Anr.**¹

The decision referred to the Single Transaction Rule by holding that there was single transaction constituting offences, even if different complaints were filed in relation thereto, sentences can be directed to run concurrently, and this was considered to be an exception to the principle laid down in Section 427(1) of the Code of Criminal Procedure,

¹ (2013) 7 SCC 211

which prescribed that only substantive sentences can be directed to run concurrently but the sentences awarded in default of payment of fine/compensation, cannot run concurrently.

2. According to us, the case of the Petitioner is covered by the aforesaid authoritative pronouncement as we find that the three complaints which resulted into three different cases being filed before the Metropolitan Magistrate, 48th Court, Andheri, arising out of the same transaction.

3. Mr. Yagnik, the learned A.P.P. representing the State, however point out that since the prosecution was launched on the basis of complaints and the accused face the trial under Section 138 of the Negotiable Instruments Act, 1881, the complainants shall be issued with a notice, and finding substance in the submission, we permit the counsel for the Petitioner, to effect an amendment in the Petition by impleading the complainants as a party Respondents.

The necessary amendment shall be carried out forthwith. Re-verification is dispensed with.

4. Issue notice to the newly added Respondents, returnable on 27.01.2025.

Hamdast granted.

In addition, the notice shall also be served through the In-charge of the the Jogeshwari Police Station.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)