

2024:PHHC:172469

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 04.12.2024

CRR-512-2024 (O&M)

RAM DHARI

...PETITIONER

Versus

VINAY SINGLA AND ANR.

...RESPONDENTS

CRR-514-2024 (O&M)

RAM DHARI

....PETITIONER

Versus

SAHIL SINGLA AND ANR.

...RESPONDENTS

CRR-521-2024 (O&M)

RAM DHARI

....PETITIONER

Versus

RAMAN KUMAR AND ANR.

....RESPONDENTS

CRR-526-2024 (O&M)

RAM DHARI

....PETITIONER

Versus

VIPIN KUMAR AND ANR.

...RESPONDENTS

CRR-540-2024 (O&M)

RAM DHARI

....PETITIONER

Versus

MEENA SINGLA AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Mittal, Advocate
for the petitioner.
Mr. Arjun Kapoor, Advocate for the complainant
in CRR-526 and 540-2024.
Mr. Prince Sharma, Advocate for the complainant
in CRR-512 and 521-2024.

SANDEEP MOUDGIL, J.

1. This order shall dispose off five revision petitions namely CRR-512-2024, CRR-514-2024, CRR-521-2024, CRR-526-2024, and CRR-540-2024 as all of them involve similar facts and question of law, as such, they are being decided by this common order, being passed in CRR-512-2024 and the facts are being taken therefrom.

2. This revision petition has been directed against the judgment of conviction and order of sentence, dated 13.11.2017, passed by the learned Judicial Magistrate Ist Class, Patiala, whereby the petitioner has been convicted and sentenced for imprisonment for ten months and to pay the compensation equivalent to cheque amount and to undergo simple imprisonment of three months in default of payment of compensation, in Complaint No.1766 dated 28.07.2015 titled "Vinay Singla Versus Rajbhar Housing & Infrastructure Developers Ltd. & others" filed under Section 138 & 142 of the Negotiable Instruments Act, 1881, read with Section 420 IPC and also the judgment dated 15.10.2019 passed by the learned Additional Sessions Judge, Patiala, thereby affirming the judgment of the learned Judicial Magistrate Ist Class, Patiala.

3. The petitioner, who is accused No.3 in the complaint being the

Managing Director of accused No.1 – Company named Rajbhar Housing & Infrastructure Developers Ltd., has been convicted and sentenced by the learned Judicial Magistrate Ist Class, Patiala, for commission of offence under Section 138 of the Negotiable Instruments Act, on account of dishonour of cheque No.883377 dated 20.02.2015 amounting to Rs.2.00 lacs drawn on Punjab National Bank, who was issued in discharge of their liability, with remarks “Funds Insufficient at the Opening Time”. Legal notice served also remained unfruitful. The learned trial Court after examining the evidence adduced by the parties gave a detailed judgment and held the petitioner (accused No.3) alongwith accused Nos.1 & 2 guilty for the offence under Section 138 of the above Act, therefore, convicted and sentenced them all for the offence and term mentioned at the very outset of this judgement.

4. Aggrieved against the judgment of conviction and order of sentence passed by the learned trial Court, the petitioner and accused No.2 preferred appeal before the Court of Session at Patiala but their appeal failed and was dismissed by the learned Additional Sessions Judge, Patiala, vide judgment dated 15.10.2019, as the appellants or their counsel did not appear before the learned Appellate Court and the appeal was decided, keeping in view the grounds taken in the grounds of appeal.

5. Now, accused No.3 – Ram Dhari has filed this revision petition against the judgements of both the Courts below and have challenged both the judgements on the strength that even though the complainant and others have failed to prove their case against the petitioner yet the petitioner has been convicted on the basis of presumption under Section 139 of the above Act; and that as per evidence, the petitioner Company did not deal with the

kind of scheme as alleged by the complainant; and that the petitioner did not sign the alleged documents nor issued the cheque to the respondents as such petitioner is not liable in any manner whatsoever, it is only by the employee of the Company, named Ranbir Singh Negi, who has misappropriated the documents and cheque in question. The complainant – Vinay Singla is the partyman of abovesaid Ranbir Singh Negi and thus has filed six complaints against the Company and others. Therefore, the petitioner has been illegally and erroneously convicted and sentenced and as such, the impugned judgments are unjust and improper and are liable to be set aside. The revision petition is accompanied by CRM-11623-2024 for suspension of sentence, which is also being taken up with the main revision petition.

6. Before proceeding to dictate the judgment, it is necessary to refer to this Court's order dated 22.07.2024, according to which, the learned counsel for the petitioner has chosen not to contest the judgements on merits but has restricted his prayer in the revision petition, and in connected revision petitions, qua the sentence to be run concurrently but is also willing to undergo the imprisonment in case petitioner fails to deposit the fine, as directed by the Trial Court.

7. It is also worth-noting here that in the connected matters the detail of cheque no., date and amount, case-wise is as under:-

i) CRR-514-2024

Crl.Complaint No.COMA/2059/2015, Cheque No.883386
dated 05.03.2015 amounting to Rs.2.00 lacs

ii) CRR-521-2024

Crl.Complaint No.COMA/2054/2015, Cheque No.883378

dated 20.02.2015 amounting to Rs.2.00 lacs

iii) CRR-526-2024

CrI.Complaint No.COMA/2053/2015, Cheque No.817267

dated 20.03.2015 amounting to Rs.2.00 lacs

iv) CRR-540-2024

CrI.Complaint No.COMA/2060/2024, Cheque No.883412

dated 05.02.2015 amounting to Rs.2.00 lacs

However, date of judgment of conviction of the petitioner in all the cases is same i.e. 13.11.2017.

8. In view of the above, although there is no application on record praying the sentence to run concurrently, yet in view of the above order, the prayer of the petitioner is being considered the matter regarding sentence to run concurrently.

9. It is seen from the files of the petition in hand and also from the files of connected revision petitions that the cheques, in question, were issued in discharge of liability in separate transactions and not in relation to one and the same transaction as such the prayer of the petitioner to consider sentence to run concurrently seem to be appropriate and justified. There are five revision petitions in relation to dishonouring of five different cheques bearing separate numbers and dates, though the cheque amount is same, but cheque dates are of different months as such they are not part of one and the same transaction. Moreover, each and every complaint relating to each cheque, has been allotted separate and individual complaint number, separate trials were conducted; separate sentence has been awarded; separate appeals were filed.

10. In a similar matter concerning complaint under Section 138 of the Neglectable Instruments Act, titled **K.Padamaraja Rani Versus The State of Telangana & another**, reported as 2023 LiveLaw (SC) 584, rendered in Petition(s) for Special Leave to Appeal (Crl.) No(s).6742/2023, decided on 28.07.2023, the Hon'ble Supreme Court, considering the view taken in previous judgment delivered in **V.K.Bansal Vs. State of Haryana & Anr.**, reported as (2013) 7 SCC 211 that for a single transaction, the Court should order for concurrent running of sentence instead of consecutive sentence.

11. Therefore, in view of the above decision of the Hon'ble Apex Court, this Court feels itself constraint to consider the prayer of the petitioner to order sentence to run concurrent in all the five revision petitions.

12. Consequently, the present revision petition, and all its connected revision petitions, fail and stand dismissed on merits. The sentence awarded to the petitioner in all the cases shall run separately for the term(s) awarded to the petitioner in each and every individual complaint case.

(SANDEEP MOUDGIL)
JUDGE

04.12.2024

Poonam Negi

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No