

CRR-3271-2016, CRR-3272-2016,
CRR-3273-2016, CRR-3274-2016 &



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3271-2016,
CRR-3272-2016,
CRR-3273-2016,
CRR-3274-2016 &
CRR-3275-2016
Reserved on 26.11.2024
Date of decision: 20.12.2024

CRR-3271-2016

Naveen Kumar		...Petitioner
	Versus	
State of Punjab and another		...Respondents
	AND	

CRR-3272-2016

Naveen Kumar		...Petitioner
	Versus	
State of Punjab and another		...Respondents
	AND	

CRR-3273-2016

Naveen Kumar		...Petitioner
	Versus	
State of Punjab and another		...Respondents
	AND	

CRR-3274-2016

Naveen Kumar		...Petitioner
	Versus	
State of Punjab and another		...Respondents
	AND	

CRR-3275-2016

Naveen Kumar		...Petitioner
	Versus	
State of Punjab and another		...Respondents

CRR-3271-2016, CRR-3272-2016,
CRR-3273-2016, CRR-3274-2016 &



CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Yadwinder Singh, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

Ms. Amandeep Kaur, Advocate and
Mr. Vikas Singh, Advocate for respondent No.2.

KARAMJIT SINGH, J. (ORAL)

1. All theses revision petitions are taken up together for final disposal since they are interconnected being arising out of the same transactions regarding dishonor of various cheques issued by the petitioner in favour of respondent No.2.

2. CRR-3271-2016 CRR-3272-2016, CRR-3273-2016, CRR-3274-2016 & CRR-3275-2016 are filed by petitioner/accused, being aggrieved by the judgments dated 15.07.2016 passed by the Court of Additional Sessions Judge, Faridkot whereby the appeals filed by the petitioner against the judgments of conviction and orders of sentence dated 23.02.2016 passed by the Court of Judicial Magistrate Ist Class, Faridkot, were dismissed.

3. The brief facts of the case are that are taken from CRR-3271-2016.

4. Complainant/Respondent No.2 filed criminal complaint against the petitioner/accused alleging that petitioner issued cheque No.208304 dated 15.12.2011 of Rs.15 lacs drawn on HDFC Bank Limited from his bank account, in the name of respondent No.2. The said cheque was issued by the petitioner in discharge of his legal liability towards respondent No.2.

On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 09.03.2012. Thereafter, legal notice dated 14.03.2012 was served upon the petitioner but despite due service of notice, petitioner failed to make payment of cheque amount and resultantly, criminal complaint was filed by respondent No.2 against the petitioner under Section 138 NI Act.

5. CRR-3272-2016 is relating to cheque No.208303 dated 31.12.2011 of Rs.15 lacs drawn on HDFC Bank Limited from his bank account, in the name of respondent No.2. The said cheque was issued by the petitioner in discharge of his legal liability towards respondent No.2. On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 20.03.2012. Thereafter, legal notice dated 23.03.2012 was served upon the petitioner but despite due service of notice, petitioner failed to make payment of cheque amount and resultantly, criminal complaint was filed by respondent No.2 against the petitioner under Section 138 NI Act.

6. CRR-3273-2016 is relating to cheque No.208306 dated 15.01.2012 of Rs.15 lacs drawn on HDFC Bank Limited from his bank account, in the name of respondent No.2. The said cheque was issued by the petitioner in discharge of his legal liability towards respondent No.2. On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 10.04.2012. Thereafter, legal notice dated 12.04.2012 was served upon the petitioner but despite due service of notice, petitioner failed to make payment of cheque amount and resultantly, criminal complaint was filed by respondent No.2 against the petitioner

under Section 138 NI Act.

7. CRR-3274-2016 is relating to cheque No.208305 dated 30.11.2011 of Rs.10 lacs drawn on HDFC Bank Limited from his bank account, in the name of respondent No.2. The said cheque was issued by the petitioner in discharge of his legal liability towards respondent No.2. On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 12.01.2012. Thereafter, legal notice dated 02.02.2012 was served upon the petitioner but despite due service of notice, petitioner failed to make payment of cheque amount and resultantly, criminal complaint was filed by respondent No.2 against the petitioner under Section 138 NI Act.

8. CRR-3275-2016 is relating to cheque No.208307 dated 31.01.2012 of Rs.15 lacs drawn on HDFC Bank Limited from his bank account, in the name of respondent No.2. The said cheque was issued by the petitioner in discharge of his legal liability towards respondent No.2. On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 13.04.2012. Thereafter, legal notice dated 23.04.2012 was served upon the petitioner but despite due service of notice, petitioner failed to make payment of cheque amount and resultantly, criminal complaint was filed by respondent No.2 against the petitioner under Section 138 NI Act.

9. In all the said criminal complaints, petitioner was summoned and he faced separate trials and on conclusion of trial, the petitioner was convicted and sentenced to undergo imprisonment for a period of one year each and to pay a fine of Rs.20,000/- each and in default of payment of fine

to further undergo imprisonment for a period of 30 days each in all the five criminal complaints vide separate judgments and orders dated 23.02.2016 passed by the Court of Judicial Magistrate Ist Class, Faridkot.

10. Being aggrieved, the petitioner filed five separate appeals against the aforesaid judgments and orders dated 23.02.2016 passed by the Court of Judicial Magistrate Ist Class, Faridkot. The said appeals were also dismissed and the Court of Additional Sessions Judge, Faridkot vide judgments dated 15.07.2016 upheld the judgments and orders passed by the trial Court.

11. The petitioner being aggrieved by the judgments passed by the trial Court and the Court of Additional Sessions Judge, Faridkot has filed the present revision petitions.

12. The counsel for the petitioner while restricting his arguments has submitted that the petitioner has already undergone the entire sentence in one of the five criminal complaints. The counsel for the petitioner has further submitted that all the transactions with regard to cheques in question were spanning within a period of three months and all theses cheques are relating to same transactions. So, prayer is made that the substantive sentences imposed in the five criminal complaints be directed to run concurrently, in the light of the law laid down by Hon'ble Supreme Court in ***V.K. Bansal Vs. State of Haryana and another (2013) 7 SCC 211*** and the decision of Full Bench of this Court in ***Jang Singh Vs. State of Punjab 2008 (1) RCR (Criminal) 323***.

13. On the contrary, counsel appearing on behalf of respondent no.2 has contended that the cheques in question were not relating to single

transaction. The cheques were issued on different dates and even were presented on different dates. It is further submitted that five different complaints under Section 138 were lodged against the petitioner and the petitioner faced separate trials and was convicted and sentenced to imprisonment separately in all the five cases by the trial Court. Even, five separate appeals were preferred by the petitioner against the judgments and orders passed by the trial Court. That no order was passed by the trial Court or the Court of Additional Sessions Judge, indicating that the substantive sentences in all the five cases are to run concurrently. The counsel for respondent No.2 further submits that till date, no fine has been paid by the petitioner and that the present petitions deserve to be dismissed.

14. I have considered the submissions made by counsel for the parties.

15. Counsel for the petitioner has produced copies of the concerned receipts dated 23.02.2016, as per which the fine imposed by the trial Court in each of the complaint case i.e. Rs.20,000/- each is already paid by the petitioner.

16. During arguments, the counsel for the petitioner has not challenged the findings recorded by the trial Court in its judgments of conviction dated 23.02.2016 and the judgments passed by the appellate Court dated 15.07.2016. Even, the orders of sentence passed by the trial Court are not challenged with regard to quantum of sentence. However, the only prayer made in the present petitions is that the sentences imposed by the trial Court and upheld by the appellate Court be directed to run concurrently.

17. In CRR-3271-2016 cheque was dated 15.12.2011 and the same was dishonored vide memo dated 09.03.2012. In CRR-3272-2016 cheque was dated 31.12.2011 and the same was dishonored vide memo dated 20.03.2012. In CRR-3273-2016 cheque was dated 15.01.2012 and the same was dishonored vide memo dated 10.04.2012. In CRR-3274-2016 cheque was dated 30.11.2011 and the same was dishonored vide memo dated 12.01.2012. In CRR-3275-2016 cheque was dated 31.01.2012 and the same was dishonored vide memo dated 13.04.2012. Admittedly, the parties in all the five criminal complaints are also same. The aforesaid transactions are covered under a period of six months spanning from November, 2011 to April, 2012. The facts of all the five criminal complaints are overwhelming identical in the features though the transactions in question undertaken at different point of time. Thus, the transactions in question are to be deemed as a singular transaction or different segments of one transaction.

18. Section 427 Cr.P.C is relevant in the context which reads as under:-

427. Sentence on offender already sentenced for another offence.

(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.”

19. As per sub Section (1) of Section 427 Cr.P.C when a person

already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment, such imprisonment shall commence on the expiry of the imprisonment to which he has been previously sentence, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence.

20. Sub Section (2) of Section 427 Cr.P.C provides that when a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment of life, the subsequent sentence shall run concurrently with such previous sentence.

21. From the above, it can be gathered that the intention of legislature is that even the life convicts have been held entitled to benefit of subsequent sentence, being run concurrently, be it life term or of any lesser term, then the different yardstick cannot be applied for those persons who have been awarded sentence of lesser duration then life unless there are compelling reasons to do so.

22. In general, it can be said that every provision of law is meant to impart justice and to ensure fair and objective treatment with every subject, but while doing so, the chances of causing injustice or failure in extending complete justice cannot be denied. To meet such an eventuality the inherent powers under Section 482 Cr.P.C are to be invoked to secure the ends of justice.

23. Reverting back to the facts of the present case, admittedly, in all the five criminal complaints, lis is between the same parties. As per the custody certificate dated 22.03.2023 issued by Additional Superintendent,



Central Jail, Faridkot, the petitioner completed entire sentence of one year in one of the aforesaid criminal complaints and thereafter, he was bailed out in the remaining four criminal complaint.

24. In the light of the above discussion, this Court is of the view that the petitioner is entitled to benefit of the discretion contained in Section 427 Cr.P.C. It is clarified that the direction regarding concurrent running of sentences shall be limited to the substantive sentences only. The sentences which the petitioner has been directed to undergo in default of payment of fine shall not be affected by this direction, as it is settled position of law that the provisions of Section 427 Cr.P.C do not permit a direction for the concurrent running of the substantive sentences with sentences awarded in default of payment of fine.

25. It is thus, ordered that the substantive sentences of one year each awarded to the petitioner in five separate criminal complaints referred to herein above would run concurrently. However, it is made clear that the petitioner would have to serve the default sentences, if the fine by way of compensation as imposed by the trial Court has not been paid by the petitioner. The revision petitions are allowed to this extent.

20.12.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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