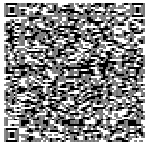


2024:PHHC:098319



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

120

CRM-M-36030-2024 (O&M)
Date of decision: 01.08.2024

Karar Hussain ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Gupta, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 427 read with Section 482 of Cr.P.C. making prayer for passing an order for concurrent running of various sentences, which have been awarded to him by the Court of learned Additional Sessions Judge, Karnal, vide judgment and conviction orders dated 21.05.2024 in the following 21 FIRs:

Sr. No.	FIR Number/Date	Under Sections	Police Station
1.	FIR No. 35 dated 10.02.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
2.	FIR No. 119 dated 28.03.2022	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
3.	FIR No. 266 dated 22.11.2021	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
4.	FIR No. 48 dated 14.02.2022	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
5.	FIR No. 307 dated	379 of IPC and	Butana, Karnal

	25.08.2021	Section 136 of the Electricity Act	
6.	FIR No. 40 dated 01.02.2022	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
7.	FIR No. 157 dated 24.02.2022	379 of IPC and Section 136 of the Electricity Act	Assandh, Karnal
8.	FIR No. 165 dated 25.05.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
9.	FIR No. 235 dated 27.09.2021	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
10.	FIR No. 283 dated 22.12.2021	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
11.	FIR No. 30 dated 18.01.2022	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
12.	FIR No. 151 dated 16.04.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
13.	FIR No. 812 dated 25.11.2021	379 of IPC and Section 136 of the Electricity Act	Assandh, Karnal
14.	FIR No. 52 dated 02.02.2022	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
15.	FIR No. 29 dated 18.01.2022	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
16.	FIR No. 227 dated 20.05.2021	379 of IPC and Section 136 of the Electricity Act	Taraori, Karnal
17.	FIR No. 216 dated 10.04.2021	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
18.	FIR No. 218 dated 11.09.2021	379 of IPC and Section 136 of the Electricity Act	Munak, Karnal
19.	FIR No. 326 dated 06.09.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
20.	FIR No. 225 dated 07.06.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal
21.	FIR No. 211 dated 25.05.2021	379 of IPC and Section 136 of the Electricity Act	Butana, Karnal

2. In all the above cases, the petitioner had been held guilty for commission of offence punishable under Section 379 of IPC and was sentenced to undergo rigorous imprisonment for 03 months each to pay fine of Rs.200/- and in default of payment of fine, he was further sentenced to undergo simple imprisonment for a period of 05 days. Further, he was also held guilty for commission of offence punishable under Section 136 of the Electricity Act and was sentenced to undergo rigorous imprisonment for 01 year and to pay fine of Rs.10,000/- and in default of payment of fine, he was sentenced to undergo simple imprisonment for a period of 10 days.

3. Obviously, 21 sessions trials were conducted by the Special Court, Karnal in respect of the aforementioned FIRs and the petitioner was one of the accused in all these cases. In all these cases, the petitioner suffered statements on 21.05.2024, thereby confessing to his guilt on the charges as framed against him. After holding the petitioner guilty and awarding the sentences as mentioned above, the learned Special Court had directed in all these cases that the period during which the petitioner remained in custody during investigation, inquiry and trial shall be set off against the substantive sentences as per section 428 of Cr.P.C. Both the sentences were ordered to run concurrently in each case .

4. Prayer in this petition has been made that sentences of the petitioner in the above mentioned 21 distinct cases should run concurrently. It is submitted in the petition and learned counsel for the petitioners has argued that that since the learned Special Court did not pass any order for concurrent running of the sentences awarded to the petitioner, as such if the sentences

awarded to him are to run consecutively, then the total period of sentence awarded to him would come to 21 years in respect of the period of convictions so awarded. Relevant to mention here is that no appeal is maintainable or lies in any Court against an order of sentence awarded on the basis of confessional statement of an accused. As per section 427 of the code of criminal procedure 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 of life shall commence at the expiration of imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence. Meaning thereby that a discretion is conferred on the Court under this provision to direct that the subsequent sentence following a conviction may run concurrently with the previous sentence. The Hon'ble Supreme Court had interpreted the provisions of section 427 of Cr.P.C. in ***Mohammad Zahid vs. State through NCB : 2021 SSC online 1183*** and had made the following observations:

“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.”

5. In *Anil Kumar vs. State of Punjab : 2017 (1) RCR (Criminal) 691*, Hon’ble Supreme Court was dealing with a case where prayer had been made for concurrent running of sentences in two different cases against the appellant wherein he was convicted under different provisions of Narcotic Drugs and Psychotropic Substances Act, 1985. On considering the facts and circumstances of the case, it was deemed appropriate to direct the sentences imposed on the appellant in two cases to run concurrently. However, the fine amount and the default sentences were ordered to be maintained. It was ordered that if the fine amount was not paid then the default sentence will run consecutively and not concurrently. Similarly in *Ikram vs. state of Uttar Pradesh and others : 2022(4) Crimes 697*, the appellant-accused was tried in nine cases for commission of offences under the provisions of Electricity Act. He had agreed to plea bargain and was held guilty and convicted by the Court of Additional Sessions Judge by nine separate judgments passed on a same day. He had been confined in jail as under trial for varying periods. The trial Judge, while awarding sentence to the accused, directed that the period of

custody as an under trial would be set off against the period of sentence. The sentences awarded in the cases wherein the conviction was under two different provisions, were ordered to run concurrently. However, there was no order for treating the sentences to be consecutive in the nine cases. The Hon'ble Supreme Court, while relying upon *Mohammad Zahid's* case (supra) observed that since all the convictions took place on the same day and the petitioner was granted set off within the meaning of Section 428 of Cr.P.C., as such by not passing any direction within the ambit of Section 427 (1) of Cr.P.C., so as to allow the subsequent sentences to run concurrently in all the cases, miscarriage of justice was caused and, therefore, direction was given that the sentences imposed on the appellant in nine sessions trial shall run concurrently.

6. In the instant case also, all the above mentioned 21 cases were decided by the same Court on the same day i.e. on 21.05.2024. The period for which the petitioner had remained in custody during investigation, inquiry and trial was ordered to be set off against the substantive sentence but no order for concurrent running of sentences awarded in all these cases, had been passed. Having considered the facts and circumstances of the present case, the nature of the offences involved in all the above mentioned 21 cases, sentences awarded, period of detention of the petitioner as on date, in my considered opinion, the petitioner is certainly entitled for benefit of discretion contained in Section 427 of Cr.P.C. and the same deserves to be exercised to meet the ends of justice as it would also not be inconsistent with the administration of justice. Accordingly, the prayer made by the petitioner to that extent is

allowed and it is ordered that the substantive sentences awarded to the petitioner in the above referred 21 cases would run concurrently.

7. The second prayer made by the petitioner is for waving off the fine of Rs.200/- imposed under section 379 of IPC and fine of Rs.10,000/- imposed under section 136 of Electricity Act, 2003 in each case and also for waiving off the default sentence. The prayer so made by the petitioner does not deserve to be allowed in view of the proposition of law as laid down by Hon'ble Supreme Court in *Shyam Pal vs. Dayavatibaisoya and another : AIR 2016 Supreme Court 5021*, wherein it was observed that direction for concurrent running of sentences would be limited only to the substantive sentences and not to default sentences, wherein fine has not been paid. Similar proposition of law was laid down in *Ammavasai and another vs. Inspector of Police and others : AIR 2000 Supreme Court 3544*. Reliance can also be placed upon *Reshma Devi and another vs. State of Haryana : 2018 (2) Law Herald 1231*, wherein a coordinate bench of this Court while dealing with the same issue had allowed the prayer of the petitioner for concurrent running of substantive sentences but had observed that so far as the default sentences were concerned, the provisions of Section 427 of Cr.P.C. did not direct for concurrent running of the sentences awarded in default of payment of fine/compensation. As such, the prayer made by the petitioner for waiving off the fine as well as the order for undergoing default sentence on account of non-payment of fine cannot be interfered with. Meaning thereby that the sentences which the petitioner has been directed to undergo in default of payment of fine shall run consecutively if he does not pay the fine. However if he pays the same even now, he shall not be required to undergo default

sentences. In view of the above discussion, the petition stands partly allowed.

8. A copy of this order be sent to the concerned jail authorities for necessary compliance.

01.08.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>