



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APPA) No. 756 of 2025
in
Criminal Appeal (APEAL) No. 677 of 2006

Pintu Girdharilal Yadav

Versus

State of Maharashtra through Police Station Officer, Police Station
Kamptee, District Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.D.Chande, Advocate for the applicant/Appellant.
Shri A.R.Chutke, APP for the respondent/State.

CORAM : NIVEDITA P. MEHTA, J.

Reserved on : 4th November, 2025.

Pronounced on : 12th November, 2025.

By the present Application for Speaking to the Minutes, the Applicant has requested to mention in the operative part of the judgment and order dated 07.01.2019 passed by the Hon'ble High Court in Criminal Appeal No. 677/2006 that, the substantive sentence imposed under Section 376 (g) of Indian Penal Code (hereinafter referred to "IPC") for 10 years imprisonment and the substantive sentence imposed under

Section 506 r/w 34 of Indian Penal Code for 1 year imprisonment shall run concurrently and sought direction against the Jail Authority to release the applicant forthwith.

2. The facts leading to the instant application in a nutshell are as under.

2.1. The Accused No. 1 namely, Viru @ Virendra S/o. Dhanraj Yadav and the Accused No. 2 namely, Pintu S/o. Girdharilal Yadav (Applicant) both were convicted for the offence punishable U/s. 376 (g) of IPC and each was sentenced to suffer Rigorous Imprisonment for 10 years and to a fine of Rs. 500/- each and in default to suffer further RI for 15 days each. Both the accused were also convicted for the offence punishable U/s. 506 r/w 34 of IPC and each is sentenced to suffer RI for 1 year and to pay a fine of Rs. 500/- and I/D to suffer further RI for 15 days each; as per the judgment and order of conviction dated 01.11.2006 in Special Case No. 09/2005 passed by the learned 10th Ad-hoc Additional Sessions Judge, Nagpur.

2.2 It is significant to note here that, the learned Trial Court in the operative part of the aforesaid Judgment dated 01.11.2006 had miserably

failed to observe as to whether both the above substantive sentences imposed upon the accused persons were to run concurrently or consecutively.

2.3. The accused have assailed the aforesaid judgment and order of conviction before the Hon'ble High Court by filing Criminal Appeal No. 677/2006 which was dismissed on 07.01.2019 and the judgment and order of conviction dated 01.11.2006 passed by the learned 10th Ad-hoc Additional Sessions Judge, Nagpur in Special Criminal Case No. 09/2005, convicting the appellants for the offences punishable U/s. 376 (g) and 506 r/w 34 of IPC was confirmed, as the accused were found guilty of the said offences during reappreciation of the evidence by the Hon'ble Court in the criminal appeal.

2.4. It would be necessary to mention here that, in the 1st para of the aforesaid order passed by the Hon'ble High Court on 07.01.2019 in the said criminal appeal, it has been incorrectly observed that, the learned trial court has directed that both the substantive sentences shall run concurrently.

2.5. The accused have thereafter assailed the aforesaid order passed by the Hon'ble High Court before the Hon'ble Supreme Court of India by

filing Special Leave Petition, which came to be dismissed and as such, ultimately, the judgment and order of conviction passed by the learned trial court has then attained finality.

2.6. Needless to mention here that the accused had, neither before the Hon'ble High Court nor before the Hon'ble Apex Court has, ever raised any concern regarding the manner or mode of the substantive sentences imposed upon them, to run concurrently or consecutively.

2.7. Further, the Criminal Writ Petition No. 234/2025 filed by the appellant/accused before the Hon'ble High Court for premature release of the applicant also came to be dismissed on 23.07.2025.

2.8. In this view of the matter, the applicant has then moved the instant application for speaking to the minutes and sought incorporation of the words 'both the substantive sentences shall run concurrently' in the operative part of the order passed by the Hon'ble High Court on 07.01.2019 in Criminal Appeal No. 677/2006, arising out of the judgment and order of conviction dated 01.11.2006 in Special Case No. 09/2005 passed by the learned 10th Ad-hoc Additional Sessions Judge, Nagpur whereby, the applicant was convicted for the offence punishable U/s. 376 (g) and U/s. 506 r/w 34 of IPC and sentenced to suffer RI for 10

years and RI for 1 year, respectively and the applicant has also sought his immediate release. Thus, the non-release of the applicant owing to absence of the aforesaid words in the operative part of the order is the core issue leading to the filing of the present application for speaking to the minutes by the applicant.

3. When the matter was taken up for hearing, the learned counsel for applicant Shri. S.D. Chande has fairly admitted that, after the judgment and order passed by the learned trial court on 01.11.2006, the applicant has neither raised such contention at any time before the Hon'ble High Court in Criminal Appeal nor before the Hon'ble Supreme Court in Special Leave Petition and after lapse of considerable long time, it was raised for the first time by way of the instant application for speaking to the minutes and therefore, the same may be considered by exercising discretion in favour of the accused.

3.1. The learned counsel for applicant Shri. S.D. Chande however submitted that, the Hon'ble High Court while deciding the appeal, in the 1st Para it's order dated 07.01.2019 has observed that the learned Trial Court has directed that 'both the substantive sentences shall run

concurrently.’ However, in its operative part, the appellate court failed to mention it inadvertently. Therefore, it is necessary to mention those words in the operative part of the order of the appellate court dated 07.01.2019 and as the jail authorities are not considering that, the substantive sentences are directed to run concurrently, the instant application for speaking to the minutes has been moved by the applicant.

3.2. The learned counsel for applicant Shri. S.D. Chande further submitted that the applicant has already completed the substantive sentence U/s. 376 (g) of IPC with remission and now, the applicant is undergoing further one year imprisonment U/s. 506 r/w 34 of IPC. Therefore, for securing the ends of justice, it is necessary to mention in the judgment and order passed by the Hon’ble Appellate Court dated 07.01.2019 that, the substantive sentences shall run concurrently and the jail authorities be directed to release the applicant forthwith as the applicant has completed the substantive sentence U/s. 376 (g) of IPC.

3.3. The learned counsel for applicant Shri. S.D. Chande further submitted that, both the offences of which the accused were convicted, were arising out of one and the same transaction and therefore, the substantive sentences are meant to run concurrently and for the said

reason, the omission of the words 'both the substantive sentences shall run concurrently' in the operative order by the learned trial court or appellate court has to be interpreted in favour of the accused and not otherwise and so, the accused may not be allowed to languish in jail further.

3.4. The learned counsel for applicant Shri. S.D. Chande has then relied on the judgment of the Full Bench of the Madhya Pradesh High Court in the case of *Shersingh -versus- State of M.P.*, reported in *1989 CRI. L.J. 632* to submit that, by virtue of Section 482 of Cr.P.C., this Hon'ble Court, under its inherent powers, can order to run the sentences concurrently, even if, the trial court or the appellate or revisional court has not exercised its discretion under Section 427 of Cr.P.C. and even though the conviction has become final. Similarly, he has also relied on the judgment of the Bombay High Court in the case of *Satnam Singh Puransing Gill -versus- State of Maharashtra* reported in *2009 SCC Online Bom 52 (2009 ALL MR (Cri) 1351)* to contend that, an obligation of a mandatory nature is casted upon the courts under Section 427 of Cr.P.C. to provide the benefit to the convict and discretionary power is vested in the courts to direct sentences to run concurrently.

4. Per contra, the learned APP Mr. Amit Chutke at the outset has urged that, apart from the fact of inordinate delay in approaching the court, the reliefs sought by the applicant by way of an instant 'application for speaking to the minutes' are, in fact, of the nature of review and/or modification of the order and hence, are itself wholly unsustainable in law and cannot be granted in view of the law laid down by the Hon'ble Apex Court in the case of *Akhil Bharatvarshiya Marwari Agarwal Jatiya Kosh And Others -Versus- Brijlal Tibrewal And Others reported in (2019) 2 Supreme Court Cases 684*. Relying on the said judgement, he vehemently submitted that, an application for speaking to the minutes can be entertained only for the purpose of correcting a typographical error or an error through oversight, which might have occurred while transcribing the original order. However, it cannot be considered on par with a review application or with an application for clarification or modification of order, otherwise, it may amount to virtually modifying the original judgment and order of conviction and hence, would be beyond jurisdiction of this Hon'ble Court in regard to scope of deciding such an application for speaking to the minutes. He submitted that in the said judgment, the Hon'ble Apex Court has also considered the judgment of

the Gujrat High Court in the case of *Kotak Mahindra Bank Ltd. -Versus- Official Liquidator of M/s. Gujrat BD Luggage Lts. & Ors*, reported in *2012 SCC Online Guj 4339*.

4.1. The learned APP Mr. Amit Chutke would then submit that recently, the Hon'ble Apex Court in the case of *Filomena Saldanha Through Power Of Attorney Mr. Frazier Saldanha -Versus- Sunil Kohli Represented By His Power Of Attorney, Mr. Naval Bowry, & Ors* reported in *2025 INSC 595* has noted the scope of such applications as pronounced by it in the judgment of *Akhil Bharatvarshiya Marwari Agarwal Jatiya Kosh And Others -Versus- Brijlal Tibrewal And Others* reported in *(2019) 2 Supreme Court Cases 684* and therefore, it still holds the field. He would then further submit that the applicant is at liberty to take appropriate recourse as is available in law and withdraw the present application.

4.2. The learned APP Mr. Amit Chutke further submitted that, when it was incorrectly mentioned in the 1st para by the appellate court that, the trial court has directed concurrent running of both the substantive sentences, then, in that case, it was the duty of the applicant to point out it to the Hon'ble court then and there only so as to enable it to correct its mistake. However, the applicant has with an ulterior motive kept mum for

so many years. He further submitted that those observations in para 1 of the order dated 07.01.2019 are nothing but an inadvertent passing remark which are contrary to the record and hence, are of no use and consequence now to the applicant.

4.3. The learned APP Mr. Amit Chutke then took me through Section 31 and Section 427 of Code of Criminal Procedure (hereinafter referred as “Cr.P.C.) and submit that, on a plain reading of section 31, it is seen that it is left to the discretion of the court imposing sentence as to whether the sentence should be made consecutive or concurrent and it appears that normally, the substantive punishment of imprisonment shall commence one after the expiration of other unless the court directs that the said punishment shall run concurrently. Thus, if the court does not direct, it would mean the punishment shall run consecutively one after the other. Further, when the sentences are made to run concurrently, the court has to direct so. Further, the omission to state the order of consecutive running of the sentences cannot ipso facto lead to concurrent running of the sentences and that, the principle related with single transaction cannot be imported for dealing with such omissions. In support of his submissions, he has relied on the judgment of the Hon’ble Supreme Court in the case

of *Sunil Kumar Alias Sudhir Kumar And Another -Versus- State of Uttar Pradesh* reported in (2021) 5 SCC 560. The learned APP Mr. Amit Chutke would further submit that, in this case, the reliance placed by the learned counsel for the applicant upon section 427 of Cr.P.C. is wholly misconceived for the reason that, section 31 deals with sentences of multiple offences imposed upon a convict in one trial whereas section 427 relates to multiple trials and the sentences that are dealt with in a subsequent conviction. Therefore, in the present case, only section 31 has application and not section 427 of Cr.P.C.

4.4. The learned APP Mr. Amit Chutke fairly admits that in many judicial pronouncements it has been held that, when one or more offences occurred in the course of a single transaction, the substantive sentences are to run concurrently. He however submitted that, whether a sentence should run concurrently or consecutively, would mainly depend upon the nature of offence committed and the facts and circumstances of each case.

4.5. The learned APP Mr. Amit Chutke has also pointed out that, the corresponding provision to section 31 of Cr.P.C. is incorporated as section 25 under the Bharatiya Nagarik Suraksha Sanhita, 2023 with

modification which empowers the court to impose such punishments to run concurrently or consecutively considering the gravity of offence.

5. Heard the respective counsel for the parties at length and perused the record.

6. The short question that arises for consideration is whether this Court, after its judgment dated 07.01.2019 has been affirmed by the Hon'ble Supreme Court, can exercise jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to modify or alter the said judgment so as to direct that the sentences shall run concurrently. Before advertng to the jurisprudence relating to Section 31 of the Code of Criminal Procedure, this Court considers it appropriate to summarise the issues that have been raised by the applicant for determination, namely—

- a) Whether this Court, by way of an independent application, can issue any direction with respect to the mode or manner of execution of sentence after the judgment has attained finality?
- b) Whether such a direction can be issued by invoking the inherent powers of this Court?

7. Before proceeding to deal with the issue involved in the matter the facts of the case is that, on 08.12.2004 around 09:00 p.m., when the prosecutrix was escaping out alongwith her two small children from the backside of her hut, the accused caught her by her hair in the courtyard and threatened her with broken bottle and dragged her to a secluded place where they committed forcible sexual intercourse with her. Further, when accused no.1 had sexually ravished her, her children were in the custody of the accused no.2 (applicant) at a few distance away as hostages and after satisfying his lust, when the accused no.1 come back, the accused no.2 (applicant) had went and sexually ravished her and at that time, her children were in the custody of the accused no.1. Further, after the incident, she was threatened to not to disclose the incident to anybody otherwise the accused would kill her husband and children and destroy her hut.

One can imagine the mental trauma and agony faced by the prosecutrix after the alleged incident and looking to the manner in which the alleged heinous offence was committed, the leaned trial court must have refrained itself from exercising discretion in favour of the accused by not mentioning concurrent running of the substantive sentences. Already

the discretion has been exercised along judicial lines by the learned trial court keeping in view the manner of offence and its gravity.

8. This court would like first to reproduce Section 31 and Section 427 of Criminal Procedure Code (hereinafter referred to as Cr.P.C.) as under:

31. Sentence in cases of conviction of several offences at one trial.—(1)

When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code (45 of 1860), sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

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.

Section 31 of the Code of Criminal Procedure, 1973 is a pivotal provision that governs the mode of sentencing when an accused is convicted of two or more offences at one trial. The section, while conferring wide discretion upon the sentencing court, does not lay down specific guidelines as to the circumstances in which sentences should run concurrently or consecutively. The language of the provision makes it clear that the direction for sentences to run concurrently or consecutively pertains to the method of execution of the sentence and does not alter the nature or quantum of punishment. The legislative intent underlying Section 31 is to empower courts to impose multiple punishments in appropriate cases while ensuring that aggregate punishment remains proportionate and not excessive.

9. Under Section 31(1), CrPC, when a person is convicted of two or more offences at one trial, the sentencing court, subject to Section 71 of the Indian Penal Code, 1860 (“IPC”), is competent to award separate punishments for each offence. In the absence of any specific direction, such sentences shall run consecutively. Section 31(2) further clarifies that even where consecutive sentences are imposed, the aggregate punishment shall not exceed fourteen years, nor shall it exceed twice the amount of punishment the court is competent to inflict for a single offence.

10. It is the option of the trial court that passes a different sentence on the accused at trial to order for concurrently, i.e. the lesser punishment should be merged with the greater punishment. When in a trial, several offences are ordered by the court and the court has not directed the method of sentencing, then the sentences shall run one after another as directed by the court. In *O.M. Cherian alias Thankachan v. State of Kerala and Others* [(2015) 2 SCC 501], the Hon’ble Supreme Court has observed in paragraph 20 as under:

“20. Under Section 31 CrPC it is left to the full discretion of the court to order the sentences to run concurrently in case of conviction for two or more offences. It is difficult to lay down any straitjacket approach in the matter of exercise of such discretion by the courts. By and large, trial

courts and appellate courts have invoked and exercised their discretion to issue directions for concurrent running of sentences, favouring the benefit to be given to the accused. Whether a direction for concurrent running of sentences ought to be issued in a given case would depend upon the nature of the offence or offences committed and the facts and circumstances of the case. The discretion has to be exercised along the judicial lines and not mechanically.”

11. However, this court found substance in the argument of the learned APP Mr. Amit Chutke that, whether a sentence should run concurrently or consecutively, would mainly depend upon the nature of offence committed and the facts and circumstances of each case. The record reveals that the accused had committed heinous crime by committing gang rape upon a married lady and by threatening and holding her small children as hostages in their custody. Therefore, the trial court has not exercised its jurisdiction contemplated under section 31 of Cr.P.C. in his favour. Even the appellate court found the accused guilty of those offences and the conviction is maintained till Apex Court.

12. This court further finds that in the present case, the applicant is convicted U/s. 376(g) of IPC and sentenced to suffer RI for 10 years and he is also convicted U/s. 506 r/w 34 of IPC and sentenced to suffer RI for 1 year. As such, the applicant is convicted for two offences in a single

trial and therefore, as has been rightly pointed out by learned APP Mr. Amit Chutke, Section 427 of Cr.P.C. has no application, since he was not convicted and sentenced to punishment in different trials.

13. The applicant was convicted by the learned Trial Court on 01.11.2006 and thereafter, his Appeal was dismissed on 07.01.2019 on merits and lastly, the SLP filed by applicant was dismissed. Thus, the conviction of the applicant has attended finality. The Criminal Writ Petition No. 234/2025 for premature release of the applicant was dismissed on 23.07.2025.

14. In the judgment relied by the learned counsel for applicant Shri. S.D. Chande in the case of *Shersingh -versus- State of M.P.*, reported in 1989 CRI. L.J. 632 (*Supra*), the applicant therein who was undergoing sentences in two different cases has invoked the inherent powers of the MP High Court under section 482 of Cr.P.C. for requesting the sentences passed in those two cases against him to run concurrently. This court is not disputing the ratio of law laid down in that judgment that, by virtue of its inherent powers under Section 482 of Cr.P.C., the Hon'ble High Court can order to run the sentences concurrently even if the trial court or the

appellate or revisional court has not exercised its discretion under Section 427 of Cr.P.C. and even though, the conviction has become final. However, significantly, it was not an application for speaking to the minutes and therefore, is of no help to the applicant to support his contention that, this court has jurisdiction to deal with the same in an application for speaking to the minutes.

15. Even in the case of *Satnam Singh Puransing Gill -versus- State of Maharashtra* reported in 2009 SCC Online Bom 52 (2009 ALL MR (Cri) 1351) relied by the learned counsel for applicant Shri. S.D. Chande to buttress his submission that, an obligation is casted upon the courts under Section 427 of Cr.P.C. to provide the benefit to the convict by directing the sentences to run concurrently. This court is not disputing propositions of law set out in that judgment. However, the Hon'ble Apex Court in the said judgment has itself left the question of jurisdiction, maintainability to be decided by the learned single judge in accordance with law. Even in this case also, it was not directed to pass such orders while dealing with applications for speaking to the minutes.

16. The learned counsel for applicant/ appellant argued that this court has the inherent power to direct the method of sentencing if the trial court has failed to expressly mention it in the judgment, and the High Court has the power to rectify this error of law under the inherent power of the court. As far as this argument of the appellant is concerned, this court finds the argument partially correct. The appellant court has the power to rectify this error, as was held in the case of ***Sunil Kumar v. State of U.P., (2021) 5 SCC 560***. In para12, the court observed that it is the High Court's duty to correct the error and direct the method of sentencing the relevant para is reproduced below-

“12. As noticed, if the court of first instance does not specify the concurrent running of sentences, the inference, primarily, is that the court intended such sentences to run consecutively, though, as aforesaid, the court of first instance ought not to leave this matter for deduction at the later stage. Moreover, if the court of first instance is intending consecutive running of sentences, there is yet another obligation on it to state the order (i.e. the sequence) in which they are to be executed. The disturbing part of the matter herein is that not only the trial court omitted to state the requisite specifications, even the High Court missed out such flaws in the order of the trial court”.

17. However, in the present case, it should be noted that this error has not been brought before this court as a ground of appeal. In the present case, the appellant has already exhausted all the remedies by

appealing to the Supreme Court. The question of the method of sentencing was not raised by the appellant for a reasonable time. Now the appellant is stating that the court should independently place an order for declaring the sentencing method to run consecutively. This plea has not been raised before the original appellate court nor the Honourable Supreme Court. There was no reasonable explanation as to why there was so much delay in raising this plea.

18. In the present case, the conviction and sentence recorded by the learned Trial Court were challenged before this Court and thereafter before the Hon'ble Supreme Court. Both Courts upheld the conviction and sentence in toto. At no point during the proceedings was any argument advanced that the sentences should have been directed to run concurrently.

19. *In Akhil Bharvarshiya Marwari Agarwal Jatiya Kosh and others v. Brijlal Tribrewal and others, (2019) 2 SCC 684*, the Court held that any order which seeks to alter substantive rights or introduces new directions amounts to a review or modification and, therefore, falls outside the scope of a mere correction note. It is further noted that no appeal or

cross-objection has been filed by the plaintiff; accordingly, the High Court cannot grant the relief sought in the absence of such appellate or cross-objection jurisdiction. It is also clarified that the jurisdiction and scope of civil and criminal courts are substantially different. The *ratio decidendi* of a civil case cannot be mechanically applied to a criminal proceeding. However, the Court does not dispute the principle that an application seeking correction of clerical or arithmetical errors in the proceedings may be entertained. Nevertheless, such an application cannot be equated with an application for review, which involves a substantive reconsideration of the order.

20. It is a well-settled principle of criminal jurisprudence that once a judgment of conviction and sentence attains finality, having been affirmed by the appellate and the apex courts, the same cannot be reopened or modified by way of any subsequent application. The Hon'ble Supreme Court, in *Criminal Appeal Nos. 1153–1155 of 2021*, has reiterated that under Section 362 of the Code of Criminal Procedure (analogous to Section 473 of BNSS, 2023), no Court has the power to alter or review its judgment, except to correct a clerical or arithmetical

error. The Hon'ble Supreme Court in Criminal Appeal Nos. 1153-55 of 2021 has held that under section 362 of CRPC it is not permissible for any court to alter or review its earlier judgment except to correct a clerical or arithmetical error. The Hon'ble Apex Court in paragraphs 9 and 10 has held thus:

9. For appreciating the issue, it will be relevant to refer to Section 362 of Cr.P.C., which reads thus:

"362. Court not to alter judgment.- Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error."

10. It can thus be seen that, under Section 362 of Cr.P.C., once the judgment and final order is signed disposing of a case, no Court is allowed to alter or review the same except to correct a clerical or arithmetical error. No doubt that the High Court while delivering the impugned judgment has said that it was only correcting a clerical error. However, for testing the correctness of the said finding, it will be pertinent to refer to certain paragraphs of both the judgments of the High Court.

21. It is further held by the Supreme Court in the case of *Vikram Bakshi and Ors. v. R.P. Khosla and Anr.*, 2025 LiveLaw (SC) 844- That once a judgment reaches its finality, i.e. the judgment is signed and pronounced criminal court cannot change or review its own judgment. The court further held that criminal courts become *functus officio* once a judgment is signed and can only correct clerical or arithmetical errors or

act in rare situations such as fraud, lack of jurisdiction or denial of hearing.

The relevant para is reproduced below-

“34. A careful consideration of the statutory provisions and the aforesaid decisions of this Court clarify the now-wellsettled position of jurisprudence of Section 362 of CrPC which when summarize would be that the criminal courts, as envisaged under the CrPC, are barred from altering or review their own judgments except for the exceptions which are explicitly provided by the statute, namely, correction of a clerical or an arithmetical error that might have been committed or the said power is provided under any other law for the time being in force. As the courts become functus officio the very moment a judgment or an order is signed, the bar of Section 362 CrPC becomes applicable, this, despite the powers provided under Section 482 CrPC which, this veil cannot allow the courts to step beyond or circumvent an explicit bar. It also stands clarified that it is only in situations wherein an application for recall of an order or judgment seeking a “procedural review” that the bar would not apply and not a substantive review” where the bar as contained in Section 362 CrPC is attracted. Numerous decisions of this Court have also elaborated that the bar under said provision is to be applied stricto sensu”.

22. Therefore, as far as the first issue is concerned, this court does not have jurisdiction to provide such direction in an independent order. Since the matter has reached finality, this court cannot give such direction. The appellant has pleaded to make such a direction under the inherent power of the court under section 482 of the CrPC (528 BNSS). Inherent powers of the court are such powers which is used to do complete justice. Such powers are in the intrinsic in a superior court; it is its very life-blood,

its very essence, its immanent attribute. It is the power of the High Court that restrains a higher court from merely performing as a formal organ. However, it should be noted that the inherent powers should be used with caution. It should not become a tool by which provisions of law are overridden in the name of complete justice. In the present case, the judgment has reached in its finality and the appellant has exhausted all their remedies. In this situation, section 362 provides that once the judgment is signed and sealed, it cannot be changed or reviewed by the court. In the presence of express provision, the inherent powers cannot be used to override the law.

23. The question as to whether sentences are to run concurrently or consecutively is a matter to be decided at the stage of sentencing itself, after hearing the convict on that aspect as contemplated under Section 235(2) CrPC. Once the judgment and order of conviction have attained finality, the same cannot be revisited under the guise of a “speaking to minutes” application.

24. It is an admitted position that the applicant never raised the plea of concurrent running of sentences at any stage from the trial

proceedings till the dismissal of the appeal by the Hon'ble Supreme Court. The present attempt to seek modification of the operative portion of the judgment is, therefore, wholly misconceived and devoid of merit.

25. Having bestowed my thoughtful consideration to the submissions advanced and the legal position settled by the Hon'ble Supreme Court, I find no merit in the present application. The same deserves to be rejected.

ORDER

(i) The Criminal Application for Speaking to Minutes read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, stands **rejected**.

(ii) No order as to costs.

At the conclusion, the Court places on record its appreciation for the valuable assistance rendered by the learned counsel for the applicant, Shri S.D. Chande, as well as by the learned Additional Public Prosecutor, Mr. Amit Chutke.

[NIVEDITA P. MEHTA, J.]