

2025:PHHC:093131



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

CRR-35-2025 (O&M)
DECIDED ON: 25.07.2025
- SURESH KUMAR

.....PETITIONER
- VERSUS
- SURENDER SINGH & ANOTHER

.....RESPONDENTS
2.

CRR-32-2025 (O&M)
- SURESH KUMAR

.....PETITIONER
- VERSUS
- SURENDER SINGH & ANOTHER

.....RESPONDENTS
3.

CRR-19-2025 (O&M)
- SURESH KUMAR

.....PETITIONER
- VERSUS
- SURENDER SINGH & ANOTHER

.....RESPONDENTS
- AND
4.

CRR-41-2025 (O&M)
- SURESH KUMAR

.....PETITIONER
- VERSUS
- SURENDER SINGH & ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Neeru Bansal, Advocate
for the petitioner.

None for respondent No.1.

Ms. Chhavi Sharma, AAG, Haryana.

SANDEEP MOUDGIL, J

1. By way of this common order, this Court intends to dispose off, all the afore-said petitions together, as common question of law is involved in all the petitions.

Prayer

2. The afore-said revision petitions have been preferred against judgment dated 21.09.2024 passed by learned Additional Sessions Judge, Sonipat whereby, the appeal preferred against the judgment of conviction dated 27.02.2018 and order of sentence dated 28.02.2018 passed by Judicial Magistrate Ist Class, Sonipat in different Complaints bearing CIS Nos. COMA-5268-2013, COMA-5267-2013, COMA-5269-2013 & COMA-5270-2013 vide which the petitioner was convicted and sentenced to undergo a rigorous imprisonment for a period of one year in each complaint for commission of offence under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'Act of 1881'), has been upheld. The petitioner was also directed to pay compensation of Rs.2,00,000/- in two cases and Rs.4,00,000/- in other two cases, under Section 357(3) of Cr.P.C. to the complainant.

Contentions:

3. At the very outset, learned counsel for the petitioner contends that she does not want to challenge the conviction of the petitioner on merits. However, she submits that in view of the circumstances of the case, the sentence awarded by the trial Court is on higher side.

4. However, she argues that in the separate criminal complaints, the evidence adduced are substantially the same and since all the complainants were heard together by the trial court and decided on the same day vide separate judgment and order on quantum of sentence, the sentences imposed upon the

petitioner in the separate criminal complaints are required to run concurrently as per Section 427 CrPC.

5. Reliance has been placed upon judgment passed by Delhi High Court in “**Amit Sharma vs. Rama Goyal**”, 2023 (1) DCR 742, wherein it has been observed that it is only when the conviction in a cheque case arise out of the single transaction, concurrent sentence would be merited.

Analysis

6. The crux of the question involved in this matter is that whether this Court can invoke the inherent powers under Section 482 CrPC for granting the relief under Section 427 CrPC for ordering the sentences imposed by the trial court to run concurrently in separate criminal complaints arising out of same transaction.

7. It is apposite, at this stage, to reproduce Section 427 CrPC, 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.

8. Therefore on a fair reading of Section 427 of Cr.PC, when a person who is 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. Meaning thereby the sentences in both the conviction shall run consecutively. However, there is an exception to that, namely unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence. There is one another exception. As per Sub-section (2) of Section 427 of Cr.PC 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. Therefore, in aforesaid two cases only the subsequent sentence shall run concurrently with previous sentence. Otherwise the subsequent sentence shall run consecutively and the imprisonment in subsequent sentence shall commence at the expiration of the imprisonment to which he has been previously sentenced.

9. In **Mohd. Akhtar Hussain @ Ibrahim Ahmed Bhatti, Vs. Assistant Collector of Customs (Prevention), Ahmedabad and others, AIR 1988 SC 2143,** while dealing with Section 427 CrPC, the Supreme Court held that the basic rule of thumb over the years has been the so-called single transaction rule for concurrent sentences. If a given transaction constitutes two offences under two enactments generally, it is wrong to have consecutive sentences and it is proper and legitimate to have concurrent sentences but such rule has no application if the transaction relating to offences is not the same or the facts constituting the two offences are quite different.

10. The above principle was applied in a recent judgment in **V.K. Bansal Vs. State of Haryana & Another, (2013) 7 SCC 211,** where in cases under Section 138 of NI Act 1881, the Supreme Court held that substantive sentences in all the cases shall run concurrently because the prosecution was based on a single

transaction. The Apex Court also observed that the Court has discretion to direct that subsequent sentence shall run concurrently with previous sentence and to issue a direction in a given case would depend upon the nature of the offence or offences committed and the fact situation in which the question of concurrent running of the sentences arises. The relevant extracts of the said judgment reads as under:-

*14. In **Madan Lal's** case (supra) this Court relied upon the decision in **Akhtar Hussain's** case (supra) and affirmed the direction of the High Court for the sentences to run concurrently. That too was a case under [Section 138](#) of the Negotiable Instruments Act. The State was aggrieved of the direction that the sentences shall run concurrently and had appealed to this Court against the same. This Court, however, declined interference with the order passed by the High Court and upheld the direction issued by the High Court.*

15. In conclusion, we may say that the legal position favours exercise of discretion to the benefit of the prisoner in cases where the prosecution is based on a single transaction no matter different complaints in relation thereto may have been filed as is the position in cases involving dishonour of cheques issued by the borrower towards repayment of a loan to the creditor.

11. In **Sharad Hiru Kolambe Vs. State of Maharashtra & Ors. (2018) 18 SCC 718**, the Apex Court held that unless the court directs that the punishment for such two or more offences at same trial should run concurrently, the normal principle is that the punishments would commence one after the expiration of the other whereas in a case where a person already undergoing a sentence is later imposed sentence in respect of offence tried at subsequent trial, the general rule is that the subsequent sentence imposed run consecutively unless there is a specific order passed by the court while imposing any subsequent sentence, exercising discretion conferred under Section 427 of CrPC that in the facts and circumstances the subsequent sentence should run concurrently, the sentence imposed in both the cases shall run consecutively.

12. Inherent powers of this Court can be invoked under Section 482 CrPC even if the trial Court or the appellate or revisional Courts have not exercised its discretion under Section 427(1) CrPC in directing running of previous and subsequent sentences concurrently. The inherent powers of the High Court are not, in any way, fettered by the provisions of Section 427(1) and it can be invoked at any stage, even if there is no such order passed under Section 427(1) by the trial Court or Appellate or Revisional Court and even though the conviction has become final as has been authoritatively held by the Apex Court in *State of Punjab v. Madhan Lal, 2009 (5) SCC 238*.

13. The accused is bound to undergo the sentence as ordered by the Court but to undergo the sentence twice one after another for the same offence, amounts to clear violation of Section 427 CrPC and also Article 20(2) of the Constitution of India which envisages that "no person shall be prosecuted and punished for the same offence more than once." That being the case, the trial court ought to have ordered the sentences of the applicant/petitioners to run concurrently to meet the ends of justice.

14. Applying the law laid down by the Apex Court in the aforesaid decisions and the principles of law enumerated hereinabove to the facts of the case on hand, these applications are allowed and it is ordered that the sentences awarded by the trial court to the petitioners in the above-cited complaints shall run concurrently.

15. Here it would be pertinent to mention that the petitioner did not challenge his conviction on merits and only confined his relief qua quantum of sentence. This Court has also scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgments as far as the conviction of the petitioner is concerned. As such, the conviction of the petitioner is upheld.

16. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

17. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. State of AP AIR 2017 SC 1166*, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

18. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court. Apart from the fact that the petitioner has already faced the agony of protracted trial for almost a decade, he is a poor person having minor children. Thus, this court is of the considered view that a chance be given to the petitioner to reform & improve himself; to become a good citizen; and to lead a peaceful & harmonious life. Moreover, it is clear that the petitioner has now been burdened with numerous liabilities. Further more, out of total substantive sentence of one

year, the petitioner has already undergone the actual custody for a period of 9 months and 8 days, as of now.

19. Taking into consideration the above narrated discussion as well as the fact that the petitioner has not challenged his conviction on merits, while affirming his conviction, the order of sentence is modified to the extent to the period already undergone by him with no change in fine clause, if any.

20. With the aforesaid modification in the quantum of sentence, all the afore-said criminal revision petitions stand dismissed. Application, if any, seeking suspension of sentence is disposed off, as having been rendered infructuous.

21 The petitioner is ordered to be released forthwith in case he is not required in any other case.

22 Pending criminal misc. application, if any shall also disposed off.

25.07.2025
sham

(SANDEEP MOUDGIL)
JUDGE

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