



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1. CRR No.330 of 2023 (O&M)
Reserved on: January 30th, 2025
Pronounced on: February 25th, 2025

M/s Aakriti Construction and Development Limited and another

.....Petitioners

Versus

M/s Aggarwal Shuttering Place

.....Respondent

2. CRR No.425 of 2023 (O&M)

M/s Aakriti Construction and Development Limited and another

.....Petitioners

Versus

M/s Aggarwal Shuttering Place

.....Respondent

3. CRR No.627 of 2023 (O&M)

M/s Aakriti Construction and Development Limited and another

.....Petitioners

Versus

M/s Aggarwal Shuttering Place and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Vishal Garg Narwana, Mr. Rahul Gupta,
Mr. Aman Mittal, Mr. Vikas Barala, Mr. Vazir Singh Mor,
and Mr. Minku Sangwan, Advocates,
for the petitioners.

Mr. Hitesh Chauhan, Advocate
for Mr. Suresh Kumar Kaushik, Advocate
for the respondent.

Mr. Rajat Gautam, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

The petitioners have approached this Court seeking a modification of the sentence imposed upon him in three separate cases arising out of complaints under Section 138 of The Negotiable Instruments Act, 1881 (hereinafter referred to as the 'N.I. Act'). The limited relief sought by the petitioner is that the sentences imposed in these cases should run concurrently rather than consecutively.

2. The crux of the matter revolves around a rental arrangement between the petitioner and the complainant for shuttering material. According to the complaint, the petitioners have been renting shuttering material from the complainant since 2008, and by 10.01.2012, an outstanding amount of ₹30 lakh was due. In purported settlement of this liability, the petitioner issued four post dated cheques each for ₹7,50,000/- dated 10.01.2012, 10.02.2012, 10.03.2012 and 10.04.2012 drawn on Allahabad Bank, Panchkula.

3. Upon presentation, the cheques were dishonoured as follows:

- Cheque dated 10.01.2012 was dishonoured on 27.01.2012.
- Cheque dated 10.03.2012 was dishonoured on 07.04.2012.
- Cheque dated 10.04.2012 was dishonoured on 04.07.2012.

4. This led to the complainant filing three separate complaints under Section 138 of the N.I. Act. Upon trial, the learned JMIC, Panchkula, convicted the petitioners and sentenced petitioner No.2 to undergo rigorous imprisonment for eight months in each case along with a fine of ₹7,50,000/- per case.

5. Both the petitioner and the complainant filed appeals before the learned Additional Sessions Judge, Panchkula. During the pendency of these appeals, the petitioner and the complainant reportedly entered into a compromise, and the petitioner made a payment of ₹5 lakh in pursuance of the settlement. However, the petitioner did not make a statement regarding the compromise before the learned Additional Sessions Judge, Panchkula. Consequently, vide judgment dated 27.11.2017, the learned Additional Sessions Judge, Panchkula, dismissed petitioners' appeal, whereas the appeal of respondent was partly allowed and enhanced the petitioner's sentence to one year of simple imprisonment and a fine of ₹7,50,000/- in each case.

6. Learned counsel for the petitioner at the outset submits that he does not press the revision petitions on merits but restricts his prayer to seeking a direction that the sentences imposed in all three cases run concurrently. He contends that: (i) the dishonoured cheques stem from a single financial transaction between the same parties, i.e. the settlement of rental arrears of shuttering material.

(ii) all the cheques were issued on the same date and in furtherance of the same obligation.

(iii) the conviction, therefore, arises from a single transaction, and imposing consecutive sentences would be harsh and disproportionate.

7. In support of this contention, learned counsel relies on the judgment of Hon'ble the Supreme Court in ***V.K. Bansal Versus State of Haryana and others 2013 (3) RCR (Civil) 1052***, wherein the Court held that when multiple convictions arise from the same transaction,

the sentences can run concurrently. Reliance is also placed on *State of Punjab Versus Madan Lal 2009 (2) RCR (Criminal) 602*, which reiterates that where multiple cheques are issued as part of a single transaction, their dishonour does not necessarily give rise to distinct and independent offences but rather constitutes a continuation of the same cause of action.

8. *Per contra*, learned counsel for the complainant opposes the prayer made by the counsel for the petitioner but is unable to dispute the fact that all the dishonoured cheques originated from the same transaction. He, however, submits that the complainant deserves to be suitably compensated.

9. I have heard learned counsel for the parties and perused the relevant material on record.

10. The primary provision governing the issue at hand is Section 427 of the Cr.P.C./467 of the BNSS, which reads as follows:

“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.”*

11. This provision empowers the Court with discretion to direct subsequent sentences to run either consecutively or concurrently depending upon the facts and circumstances of each case. Hon’ble the Supreme Court in *V.K. Bansal’s case (supra)* has held that there is no fixed formula for directing concurrent or consecutive running of sentences; the discretion must be exercised judiciously and not in a mechanical manner. Hon’ble the Supreme Court further held that when multiple convictions arise from separate and distinct transactions, the general rule is that the sentences run consecutively. However, where multiple convictions arise from a single transaction, the Court may direct the sentences to run concurrently.

12. Hon’ble the Supreme Court further noted that in cases under Section 138 of the N.I .Act, where dishonoured cheques relate to a common financial obligation, sentencing Courts should adopt a realistic and just approach, ensuring that sentences do not become excessively punitive.

13. Applying the principles laid down in *V.K. Bansal’s case (supra)* to the present facts, it is evident that the petitioner issued the cheques on the same date, in furtherance of a single financial transaction regarding payment of arrears of rent of shuttering material, with the complainant. The complainant, while opposing the petitions, has not disputed the fact that the cheques stemmed from the same underlying obligation. The prosecution of the petitioner in multiple

cases has arisen not from distinct transactions, but from the singular liability of ₹30 lakh payable towards arrears of rent of shuttering material, which merely resulted in separate complaints due to dishonour of different cheques. The complainant himself treated the matter as one composite transaction, evidenced by the compromise and lump sum payment made by the petitioner. Therefore, in facts and circumstances of the present case, directing the sentences in all three cases to run concurrently would be in consonance with the principles laid down by Hon'ble the Supreme Court. In the interest of justice, it is a fit case to invoke the discretion under Section 427(1) of the Cr.P.C.

14. Accordingly, these petitions stand allowed and the sentences imposed upon petitioner No.2 in all the three cases shall run concurrently instead of consecutively.

15. At this juncture, a prayer has been made by the learned counsel for the complainant for enhancement of compensation from ₹7,50,000/- granted by the learned trial Court.

16. This Court under Section 357 of the Cr.P.C. is vested with the power to impose compensation as an additional remedy, independent of any other sentence. Recently in ***Rajendra Bhagwanji Umraniya Versus State of Gujarat (Criminal Appeal No.2481 of 2024 decided on 09.05.2024)***, Hon'ble the Supreme Court observed that the scheme of 357 of the Cr.P.C. is aimed towards rehabilitating the victims and is not a punitive measure. At the same time, the Court must keep in mind the gravity of the offence and the financial capacity of the accused while ordering him to pay compensation. In the instant case, cheque amount i.e. ₹7,50,000/- each has already been imposed in all the

three petitions. However, in the peculiar facts and circumstances of this case, this Court deems it fit to award ₹20,000/- in total as compensation to the complainant in addition to the fine/compensation already ordered by the trial Court. The petitioner shall ensure that the compensation imposed are duly paid within three months from today, failing which this order shall be of no avail to the petitioner and the petitions shall be deemed to be dismissed.

February 25th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes