



2025:DHC:10428



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 18.11.2025

+ **CRL.A. 571/2024 & CRL.M.(BAIL) 1084/2024**

SHABIR @ SHAKIR

.....Appellant

Through: Mr. Ajay Verma, Ms. Smriti S. Nair
and Ms. Sneha Sejwal, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Kushwant PS Swaroop Nagar

AND

CRL.A. 737/2024 & CRL.M.(BAIL) 1359/2024, CRL.M.A. 4346/2025

SHABIR @ SHAKIR

.....Appellant

Through: Mr. Ajay Verma, Ms. Smriti S. Nair
and Ms. Sneha Sejwal, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Kushwant PS Swaroop Nagar

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CRL.A. 571/2024

1. By way of the present appeal, the appellant seeks to assail the



judgement of conviction dated 10.08.2023 and order on sentence dated 07.10.2023 passed by ASJ, Special Judge(NDPS), Rohini Courts, Delhi in SC No. 678/2021 arising out of E-FIR No. 13/2020 under Sections 354/323/341 IPC registered at P.S. Swaroop Nagar, Delhi.

2. Vide the order on sentence, the appellant has been directed to undergo SI for a period of 7 years and fine of Rs.5,000/- and in default of payment of fine, to undergo SI for 6 months for the offence punishable under Section 397 IPC. Further, he was sentenced to undergo SI for a period of 5 years with a fine of Rs.5,000/- and in default of payment of fine, to undergo SI for 6 months for the offence punishable under Section 392 IPC. He was further sentenced to undergo SI for 3 years and payment of fine of Rs.2,000/-, and in default of payment of fine, to undergo SI for 3 months for the offence punishable under Section 411 IPC. The benefit of Section 428 Cr.P.C. has also been provided to the appellant, and all the sentences have been directed to run concurrently.

3. Briefly put, the case of the prosecution is that on 05.01.2020, at about 5:20 PM, when the complainant was on his way back to his office situated at Alipur, carrying a bag containing undelivered shipments, a swipe machine, and Rs.37,315/-, and had reached near *Ganda Nala Road*, near *Shamshan Ghat, Nangli Poona*, two persons came on a motorcycle and crossed him, heading towards Swaroop Nagar. Suddenly, the accused persons took a turn, returned, and hit the complainant on his leg, causing him to fall to the ground. Both accused persons got down from the motorcycle; the pillion rider took out a pistol from his trouser pocket and pointed it at the complainant, while the driver of the motorcycle took out a knife and snatched the bag containing the undelivered e-kart articles from the



complainant. They also slapped him and robbed Rs.37,315/- from his possession. They also further hit the complainant with fist and leg blows, threatened to kill him, and thereafter fled from the spot. On 06.02.2020, the appellant was arrested in FIR No. 85/2020, P.S. Swaroop Nagar, under Section 25 of the Arms Act, during which he confessed to his involvement in the present FIR. Thereafter, following investigation, he was formally arrested in the present case on 13.02.2020.

4. In support of its case, the prosecution examined 6 witnesses, the material witnesses included the victim, *Yogesh Kumar*, who was examined as PW-1. The I.O. of the case is HC Pramod who was examined as PW-6. The remaining witnesses were formal in nature and deposed to various aspects of the investigation.

In the statement recorded under Section 313 Cr.P.C, the appellant claimed innocence and false implication.

5. Learned counsel for appellant, on instructions who has been produced through VC from Central Jail No. 1, Tihar, by ASI Krishan Chand, states that the appellant does not press his appeal on merits.

6. Be that as it may, this Court to satisfy itself has gone through the record which indicates that the testimony of the complainant remains cogent, consistent, and inspires confidence. He duly identified the appellant in court. As per his testimony, the appellant used a pistol during the commission of the offence. The recovery of the robbed articles from the appellant further strengthens the prosecution case, and the complainant also correctly identified the said articles. The recovered items matched the description provided by the complainant. Nothing was brought on record to substantiate the appellant's claim of false implication. It also emerged that the appellant,



had earlier been arrested in FIR No. 85/2020, during which he confessed his involvement in the present robbery. Consequently, the conviction of the appellant under Sections 392/397/411 IPC is upheld.

CRL.A. 737/2024

7. By way of the present appeal, the appellant seeks to assail the judgement of conviction dated 13.05.2024 and order on sentence dated 03.07.2024 passed by Principal District & Sessions Judge (North), Rohini Courts, Delhi in SC No. 180/2021 arising out of FIR No.24/2020 under Section 379 IPC registered at P.S. Swaroop Nagar, Delhi.

8. Vide the order on sentence, the appellant has been directed to undergo RI for a period of 7 years for the offence punishable under Section 397 IPC. Further, he was sentenced to undergo RI for a period of 3 years and fine of Rs.5,000/- and in default of payment of fine to undergo SI for 60 days for the offence punishable under Section 392 IPC. Further, he was sentenced to undergo RI for 1 year and payment of fine of Rs.5,000/-, and in default of payment of fine, to undergo SI for 60 days for the offence punishable under Section 411 IPC. The appellant was acquitted for the offence u/s 394 IPC and 27Arm Act. The benefit of Section 428 Cr.P.C. has also been provided to the appellant, and all the sentences have been directed to run concurrently.

9. Briefly put, the case of the prosecution is that on 18.01.2020, at about 7:15 PM, when the complainant was on his way back home to *Kaadi Vihar* on his motorcycle, he reached *Ganda Naala Road, Nangli Poona* village, at about 7:30 PM. At that point, two boys on a motorcycle intercepted him by stopping their motorcycle in front of his. The rider of the motorcycle enquired about the way to *Nangli Poona* village and, in the meantime, the



pillion rider got down, took out a country-made pistol from his pant pocket, and pointed it towards the complainant. The rider then parked his motorcycle, approached the complainant, took out a knife from his pocket, and forced the complainant to get off his motorcycle. The rider forcibly took Rs.28,000/- in cash from the complainant's shirt pocket, while the pillion rider, who was holding the country-made pistol, took out a brown-coloured purse from the complainant's pant pocket. After beating and threatening him, both boys fled the spot on their motorcycle with the robbed cash and purse.

Initially, an e-FIR was registered under Section 379 IPC, but after recording the complainant's statement, Sections 392/397 IPC were added. On 06.02.2020, the appellant was arrested in FIR No. 85/2020, P.S. Swaroop Nagar, under Section 25 of the Arms Act, during which he confessed to his involvement in the present offence alongwith one *Amardeep*. Thereafter, following investigation, the appellant was formally arrested in the present case. However, as the complainant could not identify the co-accused, he was released/discharged.

10. In support of its case, the prosecution examined 10 witnesses, the material witnesses included the complainant, *Raju Sah*, who was examined as PW-7. HC Pramod was marked the present FIR, prepared the site plan, and recorded the complainant's statement, was examined as PW-5. The remaining witnesses were formal in nature and deposed to various aspects of the investigation.

In the statement recorded under Section 313 Cr.P.C, the appellant claimed innocence and false implication.

11. Learned counsel for appellant again, on instructions, states that the



appellant does not press his appeal on merits.

12. Be that as it may, this Court to satisfy itself has gone through the record which indicates that the testimony of the complainant remains cogent, consistent, and inspires confidence. He duly identified the appellant in court as well as during TIP. As per his testimony, the appellant used a pistol during the commission of the offence. The complainant's purse was recovered from the appellant's house pursuant to his disclosure statement, and was identified by the complainant as the stolen property. The recovered items matched the description provided by the complainant. It is noted that the appellant was acquitted u/s 394 IPC and 27 Arms Act, as no injury was recorded nor was any medical evidence produced, and the pistol alleged to have been used in the robbery was actually recovered in a different case and was never conclusively connected to the present robbery. It also emerged that the appellant, had earlier been arrested in FIR No. 85/2020 under the Arms Act, during which he confessed his involvement in the present robbery. Further, nothing was brought on record to substantiate the appellant's claim of false implication. Consequently, the conviction of the appellant under Sections 392/397/411 IPC is upheld.

CRL.M.A. 4346/2025

13. As regards the sentence of the appellant in the above captioned two appeals, at this stage, Mr. Verma, learned counsel appearing for the appellant, after consulting with the appellant states that the appellant does not wish to press the submissions on the quantum of sentence awarded by the Trial Court and prays that his application seeking direction that the substantive sentences imposed in SC No. 678/2021 (arising out of E-FIR No. 13/2020, P.S. Swaroop Nagar) and SC No. 180/2021 (arising out of FIR No.



24/2020, P.S. Swaroop Nagar) be directed to run concurrently.

14. Now coming back to the facts of the present case that both the FIRs(E-FIR No. 13/2020 and FIR No. 24/2020) relate to the same place of incident and similar nature of offence, wherein two persons, namely, *Yogesh Kumar* and *Raju Sah* were robbed near *Ganda Naala Road, Nangli Poona* village by the appellant. In CRL.A. 571/2024, the incident pertains to 05.01.2020, whereas the subsequent incident in CRL.A. 737/2024 is dated 18.01.2020 of the same Police Station.

15. In support of his prayer, learned counsel for the appellant relies on Vicky @ Vikas Vs. State¹; V.K. Bansal Vs. State of Haryana²; Benson Vs. State of Kerala³).

16. Learned APP for the State opposes the present application, contending that the two FIRs pertain to distinct incidents.

17. Section 427 Cr.P.C. deals with sentencing for offenders already sentenced to other offence. It 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.

¹(2020) SCC OnLine SC 116

²(2013) 7 SCC 211

³(2016) 10 SCC 307



(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.”

As is evident from a reading of the provision, the sentence resulting from the subsequent conviction would normally commence at the expiry of the first sentence. However, the said rule is not set in stone and the Court has power to run the sentences concurrently. Needless to state, this discretion has to be exercised judiciously and not in an arbitrary, whimsical or mechanical manner. This concurrent sentencing is only with respect to substantive sentences and does not affect default sentences. This power may be exercised by the Trial Court, Appellate Court and the Revisional Court.

18. The principle governing concurrent running of sentences under Section 427 Cr.P.C. has been discussed by the Hon’ble Supreme Court and High Courts in catena of judgments. The Supreme Court in ‘Mohd Zahid v State through NCB’,⁴ fleshed out the principles governing Section 427 Cr.P.C. in the following manner:-

“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

⁴decided in Criminal Appeal No. 1457/2021 on 07.12.2021



judgments, concurrent sentence cannot be awarded under Section 427 of Cr.P.C.;

(iv) under Section 427 (1) of Cr.P.C. 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.”

19. The observations in Mohd Zahid (Supra) was reiterated by the Supreme Court in Iqram v. The State of Uttar Pradesh & Ors⁵, wherein the Court ordered that sentences imposed in 9 session trials pertaining to Electricity Act were to run concurrently.

20. On a conspectus of facts, it is evident that both FIRs were registered within a short span of time in the same Police Station and occurred in the same locality, involved the same accused, were investigated by the same police officers. The proximity of place and continuity of action indicates a common thread between the two occurrences. In view of the legal position as settled in Mohd Zahid (supra) and other cases discussed hereinabove, this Court is of the opinion that it is a fit case to exercise discretion in favour of concurrent running of sentences.

21. Accordingly, it is directed that the substantive sentences awarded to the appellant in SC No. 678/2021 (arising out of E-FIR No. 13/2020, P.S. Swaroop Nagar) and SC No. 180/2021 (arising out of FIR No. 24/2020, P.S. Swaroop Nagar) shall run concurrently.

22. Let a copy of this order be communicated to Jail Superintendent who would recompute the sentence in light of the order passed and inform the same to the appellant.

⁵decided on 16.12.2022 in Criminal Appeal No. 2319 of 2022



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23. The aforesaid appeals and all pending applications stand disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 18, 2025
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