

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-149-2025 (O & M)
Reserved on :09.10.2025
Date of Pronouncement:13.10.2025

Raj Kumar

.... Petitioner

V/s

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amandeep Sheoran, Advocate,
for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

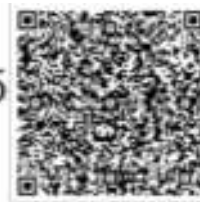
Mr. Onkar Singh Batalvi, Advocate,
for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 14.05.2024 passed by the Additional Sessions Judge, Bhiwani vide which the appeal preferred by the accused-petitioner against the judgment of conviction and order of sentence dated 10/15.03.2022 passed by the Judicial Magistrate Ist Class, Bhiwani has been dismissed.

2. The brief facts of the case are that in discharge of his legal liability, the accused-petitioner issued a cheque bearing No. 000006 dated 28.06.2017 for an amount of Rs.7,90,000/- drawn on HDFC bank Ltd., Jui and another cheque bearing No.000007 dated 16.05.2017 for an amount of Rs.7,80,000/- drawn on HDFC Bank Ltd., Jui in favour of the complainant. Both the said cheques came to be dishonoured.

3. As regards Cheque No.000006 dated 28.06.2017, a complaint bearing No.2165 of 2017 was instituted on 05.09.2017 under Section 138 of the Negotiable Instruments Act in which the petitioner came to be convicted



and sentenced vide judgment of conviction and order of sentence dated 10/15.03.2022 passed by the Judicial Magistrate Ist Class, Bhiwani as under:-

Offence under Section	Sentence RI/SI	Compensation	Sentence in default of payment compensation
138 N.I. Act	SI 01 year	Rs.7,90,000/- i.e. cheque amount alongwith 9% per annum from the date of the cheque till the date of judgment	Imprisonment for 03 months

4. The appeal bearing Criminal Appeal No.385 of 2022 filed against the aforesaid judgment of conviction and order of sentence dated 10/15.03.2022 came to be dismissed by the Court of the Additional Sessions Judge, Bhiwani vide judgment dated 14.05.2024.

5. Thereafter, the present revision petition bearing No.CRR-149-2025 has been filed challenging the aforesaid judgments.

6. In the complaint case bearing No.2166 of 2017 as regards cheque No.000007 dated 16.05.2017, the accused-petitioner came to be convicted vide a separate judgment of conviction and order of sentence dated 10/15.03.2022 passed by the Judicial Magistrate Ist Class, Bhiwani as under:-

Offence under Section	Sentence RI/SI	Compensation	Sentence in default of payment compensation
138 N.I. Act	SI 01 year	Rs.7,80,000/- i.e. cheque amount alongwith 9% per annum from the date of the cheque till the date of judgment	Imprisonment for 03 months

7. The appeal bearing Criminal Appeal No.386 of 2022 filed against the aforesaid judgment of conviction and order of sentence dated



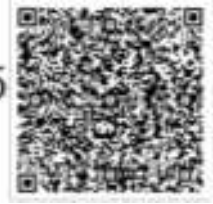
10/15.03.2022 came to be dismissed by the Court of the Additional Sessions Judge, Bhiwani vide separate judgment dated 14.05.2024.

8. Thereafter, the connected revision petition bearing No.CRR-118-2025 has been filed challenging the aforesaid judgments.

9. The learned counsel for the petitioner contends that the petitioner does not wish to challenge his conviction but prays that as both the cheques i.e. Cheque bearing No.000007 dated 16.05.2017 and cheque No.000006 dated 28.06.2017 for an amount of Rs.7,80,000/- and Rs.7,90,000/- respectively were issued in discharge of a consolidated debt of Rs.15,70,000/-, the sentence imposed in the Trial emanating from Criminal Complaint No.2165 of 2017 be ordered to run concurrently with that imposed in the Criminal Complaint No.2166 of 2017. Reliance is placed on ***'Shyam Pal versus Dayawati Besoya and anr. (Criminal Appeal Nos.988-989 of 2016 (arising out of SLP (Crl.) Nos.6226-27 of 2016) decided on 28.10.2016) and Dalip Kumar versus Sachin Singal (bearing CRM-M-35360-2022 decided on 17.08.2023)'***.

10. The learned counsel for the complainant-respondent No.2, on the other hand, contends that the accused-petitioner has not even paid the amount of compensation awarded and therefore, as two separate complaints (i.e. Complaints No.2166 of 2017 and 2165 of 2017 respectively) have been instituted leading to two separate Trials and separate judgments of conviction, there is no justifiable reason to order the sentences to run concurrently. Therefore, the present revision petition is liable to be dismissed and the prayer of the petitioner seeking the sentences to run concurrently ought not to be allowed.

11. I have heard the learned counsel for the parties.



12. A perusal of the record would reveal that the conviction of the petitioner is well-founded and based on the evidence on record. Therefore, I find no merit in the present petition and the same stands dismissed.

13. As regards the argument that the sentence imposed in the later case be ordered to run concurrently with that imposed in the former case, it would be apposite to examine the relevant judgments in this regard.

14. In '***Shyam Pal versus Dayawati Besoya and anr. (Criminal Appeal Nos.988-989 of 2016 (arising out of SLP (Crl.) Nos.6226-27 of 2016) decided on 28.10.2016***', the Hon'ble Supreme Court has held as under:-

"9. The learned counsel for the appellant has urged that as both the complaints filed by the respondents have arisen out of successive transactions in a series between the same parties and had been tried together on the basis of same set of evidence, the sentences awarded ought to run concurrently, the High Court had failed to appreciate the same. It has been submitted that the appellant is in custody since 25.02.2015 and if the two substantive sentences are construed to run concurrently, he has served not only the substantive sentences but also the sentence in default of fine as on date. That the appellant comes from a poor financial background, as well as is the sole bread earner of the family and that if the two sentences are to run consecutively, he would suffer grave injustice, has been emphasized. No argument, noticeably has been advanced, as abandoned before the High Court as well, impeaching the conviction.

10. We have extended our required consideration to few facts and the submissions made.

The materials on record leave no manner of doubt that the complaints filed by the respondents stem from two identical transactions between the same parties where



under the respondent had advanced loan of L 5 lacs each to the appellant on two different dates against which the latter had issued cheques to discharge his debt and that the cheques had been dishonored. The facts pleaded and proved do unassailably demonstrate that the loans advanced had been in the course of a series of transactions between the same parties on same terms and conditions. Significantly in both the cases, following the conviction of the appellant under Section 138 of the Act, the same sentences as well have been awarded. There is thus an overwhelming identicalness in the features of both the cases permitting, the two transactions, though undertaken at different points of time, to be deemed as a singular transaction or two segments of one transaction. This deduction understandably is in the singular facts of the case.

11. The Custody Certificate dated 06.05.2016 issued by the Deputy Superintendent of Prison, Central Jail No.5, Tihar, New Delhi appended to the appeal petition mentions that the appellant on being convicted in the complaint cases referred to herein above under Section 138 of the Act is serving out the sentences awarded and that the period of his custody is as hereunder:

(1) 25.02.2015 to 13.12.2015 (As convict in CC No. 430/11)

(2) 14.12.2015 till date i.e. 06.05.2016 (As convict in CC No. 407/11)

That meanwhile the appellant had been on interim bail for 10 days from 05.10.2015 to 14.10.2015 as granted by the High Court has also been stated.

12. The law on the orientation of two sentences awarded to an offender following his conviction successively, to define the cumulative duration thereof is envisaged in section 427 of the Code of Criminal Procedure, 1973 (for short "Code") in following terms:



"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."

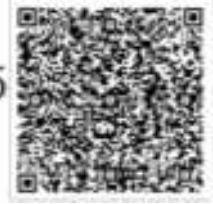
13. Though this provision has fallen for scrutiny of this Court umpteen times, we can profitably refer to one of the recent pronouncements in V.K. Bansal v. State of Haryana and Another 2013(3) RCR (Civil) 1052 : 2013(3) RCR (Criminal) 983 : 2013(4) Recent Apex Judgments (R.A.J.) 680 : (2013) 7 SCC 211 where it was held that though it is manifest from Section 427(1), that the Court has the power and discretion to issue a direction that a subsequent sentence shall run concurrently with the previous sentences, the very nature of the power so conferred, predicates that the discretion, would have to be exercised along judicial lines or not in a mechanical or pedantic manner. It was underlined that there is no cut and dried formula for the Court to follow, in the exercise of such power and that the justifiability or otherwise of the same, would depend on the nature of the offence or offences committed and



the attendant facts and circumstances. It was however postulated, that the legal position favours the exercise of the discretion to the benefit of the prisoners in cases where the prosecution is based on a single transaction, no matter even if different complaints in relation thereto might have been filed. The caveat as well was that such a concession cannot be extended to transactions which are distinctly different, separate and independent of each other and amongst others where the parties are not the same.

14. The imperative essentiality of a single transaction as the decisive factor to enable the Court to direct the subsequent sentence to run concurrently with the previous one was thus underscored. It was expounded as well that the direction for concurrent running of sentence would be limited to the substantive sentence alone.

15. In a more recent decision of this Court in Benson v. State of Kerala - 2016(4) RCR (Criminal) 602 : 2016(5) Recent Apex Judgments (R.A.J.) 716, Criminal Appeal No.958 of 2016 (since disposed of on 03.10.2016) and the accompanying appeals, arising from the conviction of the appellant from his prosecution on the offences proved, this Court in the singular facts as involved and having regard to the duration of his incarceration and the remission earned by him, extended the benefit of such discretion and directed that the sentences awarded to him in those cases would run concurrently. It was noticeably recorded that the offences in the cases under scrutiny had been committed on the same day. The benefit of the discretion was accorded to the appellant therein referring as well to the observation in V.K. Bansal (supra) that it is difficult to lay down any straight jacket approach in the matter and that a direction that the subsequent sentence would run concurrently or not, would essentially depend on the nature of the offence or offences and the overall fact situation. Understandably, the appellant was required to serve the default sentence as awarded with the direction that if the fine imposed had not been



deposited, the default sentence or sentences would run consecutively.

16. Reverting to the facts as obtained in the present appeal, we are of the comprehension, on an appreciation thereof as well as the duration of the appellant's custody, as is evidenced by the certificate to that effect, that the appellant is entitled to the benefit of the discretion contained in Section 427 of the Code. In arriving at this conclusion we have, as required, reflected on the nature of the transactions between the parties thereto, the offences involved, the sentences awarded and the period of detention of the appellant as on date.

17. It is thus ordered that the substantive sentences of 10 months simple imprisonment awarded to the appellant in the two complaint cases referred to herein above would run concurrently. Needless to say, the appellant would have to serve the default sentences, if the fine by way of compensation, as imposed, has not been paid by him. The appeals are thus allowed to this extent. The appellant would be entitled to all consequential reliefs with regard to his release from custody as available in law based on this determination”.

15. In ***‘Dalip Kumar versus Sachin Singal (bearing CRM-M-35360-2022 decided on on 17.08.2023)’***, it was held as under:-

“13. Admittedly, the transaction in each of the complaints is between the same parties and regarding the same ledger/account. The three cheques leading to the filing of two complaints were issued within a span of a few days and the complaints themselves had also been filed within a gap of a couple of months. In fact, as per the orders dated 10.10.2019 (Annexure P-7 and P-8) and the statement of the complainant of the even date (Annexure P-9), the Court has held and the complainant has agreed that the complaint was between the same parties and the allegations were also similar. The complainant did not have any objection if the cross-



examination conducted in one complaint was read in the other complaint as well. Therefore, the Court had held that the evidence recorded till date in one complaint was to be read in both the complaints verbatim.

Further, even if the proceedings in both the complaints were to go on separately and two judgments of conviction were recorded, in view of the judgments In Re: (supra), Shyam Pal (supra), Benson (supra) V.K. Bansal (supra) and Ravinder Singh (supra) the sentences would in all probability, be ordered to run concurrently the transactions being the same.

14. On the other hand, the facts in the judgment in K. Padamaja Rani (supra) are different. Firstly that was a case pertaining to four cases. These were several transactions over a period of time for supply of raw material for which the petitioner had tendered cheques towards payments. In the instant case, there were three cheques issued within a span of a few days which culminated in two complaints filed within a span of a couple of months. Similarly, the judgment in Vishwanath Jha (supra) will not come to the aid of the respondent. Firstly, V.K. Bansal (supra) has not been considered. Secondly, the Court has not considered the anomalous situation that would arise where instead of multiple cheques being issued for the Rs.12,42,289/- debt a single cheque had been issued. If a single cheque had been issued for the entire debt, then there would have been a single trial and the imposition of a single sentence which would not have exceeded two years.

Even otherwise, if the substantive sentence is ordered to run concurrently nothing prohibits the Court from imposing a sentence of fine to be paid as compensation upto twice of the cheque amount for all the cheques comprising different complaints as is evident from a plain reading of Section 138 of the Negotiable Instruments Act along with a judgment in Gaurav Khullar Versus Eleven V Industries & others, decided on 28.02.2023, CRR-1631-2016.



15. *In view of the above discussion, no useful purpose would be served by permitting the continuance of two separate trials and therefore, it would be just and expedient if the trial emanating out of complaint No.COMP/9225/2018 dated 05.07.2018 and the summoning order dated 06.07.2018 be clubbed with the trial emanating out of complaint No.COMP/6718/2018 dated 15.05.2018 and summoning order dated 17.05.2018. The Trial Court would then proceed to hear the arguments in each case and pass one judgment”.*

16. In the instant case, both the cheques were issued for the discharge of single liability of an amount of Rs.15,70,000/- which the accused-petitioner owed to the complainant-respondent No.2.

17. In view of the aforementioned discussion, the substantive sentence imposed by the Trial Court vide judgment of conviction and order of sentence dated 10/15.03.2022 and upheld by the Lower Appellate Court vide judgment dated 14.05.2024 arising out of Criminal Complaint No. 2165 of 2017 dated 05.09.2017 is ordered to run concurrently with the sentence imposed by the Trial Court vide judgment of conviction and order of sentence dated 10/15.03.2022 and upheld by the Lower Appellate Court vide judgment dated 14.05.2024 arising out of Criminal Complaint No.2166 of 2017 dated 05.09.2017. However, the sentence of payment of compensation shall remain intact in each case.

18. The pending application(s), if any, shall stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

October 13, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No