

**Syed Moula Vs. State By**

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**Court :** Karnataka

**Decided On :** Jun-29-2021

**Judge :** K.Somashekar

**Appeal No. :** CRL.P 7911/2020

**Appellant :** Syed Moula

**Respondent :** State By

**Advocate for Pet/Ap. :** Sri. Salman

**Judgement :**

R :

1. : IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE29H DAY OF JUNE, 2021 BEFORE THE HONBLE MR.JUSTICE K.SOMASHEKAR CRIMINAL PETITION No.7911 OF 2020 BETWEEN Syed Moula Aged about 37 years S/o Syed Jani At present R/o Raju Nagar 1st Stage, Near Imra Masjid Shivanna Circle Mysore - 570 001. (at present in judicial custody) ... Petitioner (By Sri. Salman , Advocate for Sri. Anees Ali Khan - Advocate) AND1 State by Chennammanakere Achukattu Police Station Bangalore - 560 050.

2. Tilak Nagar Police Station Bangalore - 560 041 Represented by The State Public Prosecutor High Court of Karnataka High Court Building Bengaluru - 560

001. ... Respondents (By Sri. Rahul Rai K, HCGP for R-1 & R-2) :

2. : This Criminal Petition is filed under Sections 482 r/w 427 of the Code of Criminal Procedure, praying to order concurrently running of sentence under Section 427 of Cr.PC., in (1) C.C.No.29832/2010; (2) C.C.No.10405/2015; (3) C.C.No.8630/2015 and (4) C.C.No.10421/2015 on the file of the II-ACMM, Bangalore. This Criminal Petition coming on for Admission, through Video Conference this day, the court made the following:

## ORDER

In this petition, petitioner/accused is seeking to order for concurrent running of sentence in C.C.No.29832/2010, C.C.No.10405/2015, C.C.No.8630/2015 and C.C.No.10421/2015 on the file of the II Addl.CMM, Bengaluru, by urging various grounds.

2. Sri Salman, learned counsel for the petitioner is appearing through video conferencing and representing Sri Anees Ali Khan, who is on record.

3. Learned HCGP for respondents is physically present before the court.

4. Though the matter is slated for admission, but with the consent of learned counsel on both sides, the same is taken up for final hearing. :

3. :

5. The petitioner is arraigned as Accused No.5 in C.C.No.29832/2010 for the offences under Sections 457 and 380 of IPC. Further, the petitioner is arraigned as Accused No.1 in C.C.No.10405/2015 for the offence under Sections 454 and 380 of IPC. Further, the petitioner is arraigned as Accused No.1 in C.C.No.8630/2015 for the offence under Sections 454 and 380 of IPC and in C.C.No.10421/2015, the petitioner is arraigned as Accused No.1 for the offence under Sections 454 and 380 of IPC. The above cases ended in conviction by the Court of II Addl.CMM, Bengaluru. Counsel for the petitioner submits that the petitioner who is said to be arraigned as accused in all these cases pleaded guilty and seeking for passing some suitable order of concurrent running of sentence as under Section 427 of

Cr.P.C.

6. Though the accused has pleaded guilty in respect of all the four charge sheeted cases, but it is relevant to refer Section 375 of Cr.P.C. which reads as under:

375. No Appeal in certain cases when accused pleads guilty. Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,- :

4. : (a) if the conviction is by a High Court; or (b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence. It is also relevant to refer Section 376 of Cr.P.C. which reads as under:

376. No appeal in petty cases. Notwithstanding anything contained in section 374, there shall be no appeal by a convicted person in any of the following cases, namely:- (a) where a High Court passes only a sentence of imprisonment for a term not exceeding six months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine; (b) where a Court of Session or a Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine; (c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or (d) where, in a case tried summarily, a Magistrate empowered to act under section 260 passes only a sentence of fine not exceeding two hundred rupees: Provided that an appeal may be brought against any such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground- (i) that the person convicted is ordered to furnish security to keep the peace; or (ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or (iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case. :

5. : It is also relevant to refer Section 427 of Cr.P.C. 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.

7. Keeping in view the involvement of the accused in all the four cases and so also, the commission of offence under Sections 457, 454 and 380 of IPC, the accused in all these four cases had to put on trial before the Court below and the prosecution had to establish the guilt of the accused, but the accused has pleaded guilty. Therefore, it is deemed appropriate to state that the contention of the counsel for the petitioner does not hold any substances :

6. : seeking to order for concurrent running of the sentences in the aforesaid cases under Section 427 of Cr.P.C. Consequently, the petition is dismissed as there is no substances and so also, there is no merits for intervention of the conviction judgment rendered by the trial Court in all those four cases. Accordingly, the petition is hereby dismissed. Sd/- JUDGE DKB

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