

Premnarayan Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Oct-11-2002

Reported in : 2003(1)MPHT442; 2003(3)MPLJ283

Judge : Narain Singh "Azad", J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 427(1) and 482;
Indian Penal Code (IPC) - Sections 394 and 397

Appeal No. : Misc. Criminal Case No. 4588/2002

Appellant : Premnarayan

Respondent : State of M.P.

Advocate for Def. : Prakash Gupta, Panel Lawyer

Advocate for Pet/Ap. : None

Judgement :

ORDER

Narain Singh 'Azad', J.

1. This order shall dispose of the petitioner's/convict's written request, contained in his inland letter, which is registered as M.Cr.C No. 4588/2002. The petitioner/convict has made a prayer that in a case, Court situated at Gadarwara,

has sentenced him to undergo the rigorous imprisonment for a period of 7 years for offences punishable under Section 394 read with Section 397 of the IPC and thereafter the Court of JMFC, Itarsi, has also sentenced him to undergo the rigorous imprisonment for a period of 1 year and 6 months for an offence punishable under Section 224/34 of the IPC, therefore, both of these sentences may be ordered to run concurrently. The aforesaid request of the petitioner is to be treated under Section 427(1) and under Section 482 of the Cr.PC.

2. On perusal of report called from Superintendent, Central Jail, Sagar, and the certified copies of the judgments pronounced in both the aforesaid cases, it is noted that in Sessions Trial No. 70/98, this petitioner Prem Narayan Malviya is convicted for offence punishable under Section 394 read with Section 397 of the IPC by Addl. Sessions Judge, Gadawara on 16-4-99, who sentenced him to undergo the rigorous imprisonment for a period of 7 years, along with other co-accused. Thereafter, on 21-11-2000, JMFC, Itarsi, has also convicted this petitioner in Criminal Case No. 55/99, for offence punishable under Section 224 of the IPC and sentenced to undergo rigorous imprisonment for a period of 1 year and 6 months. On examining both the aforesaid judgments, it is also noted that in Sessions Trial No. 70/98, the incident dated 7th January, 1998, was in consideration whereas, in Criminal Case No. 55/99, this petitioner is convicted and sentenced in respect of an occurrence dated 20-7-98.

3. It is found dictated by their Lordships of the Supreme Court in Mohd. Akhtar Hussain v. Asstt. Collector of Customs, (1988) 4 SCC 183 that when the second offence is distinct and different from the first one, the subsequent sentence should normally run consequentially as they are not covered under Section 427(1) of the Cr.PC. In Amavasai and Anr. v. Inspector of Police, Valliyannur, reported in AIR 2000 SC Page 3544, of course an accused/petitioner, who was convicted and sentenced for similar offences, in three cases, in respect of three incidents, occurring in a short span of 3 to 5 months, was allowed the benefit of Section 427(1) of the Cr.PC and his sentences imposed on all three cases were ordered to run concurrently,

4. In Jaikishan v. State of Haryana, reported in 2002 Cr.LJ Page 412, also an accused who was convicted for two offences on one date, and hence the Court directed that the sentences imposed in both the cases, shall run concurrently.

5. But in this case, this petitioner is convicted in respect of two totally different incidents, for different types of offences, which are proved to have been committed after a lapse of more than 6 months, therefore, in my opinion, he is not entitled for the benefit of Section 427(1) of the Cr.PC, and to obtain a direction that the sentences imposed upon him in Sessions Trial No. 70/98 and Criminal Case No. 55/99, be executed concurrently.

6. Therefore, the petitioner's/convict's prayer is devoid of any merit, which accordingly stands disallowed and rejected.

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