

Basudeb Pradhan Vs. State of Orissa

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Court : Orissa

Decided On : Feb-09-1982

Reported in : 1983CriLJ527

Judge : R.N. Misra. C.J.

Appellant : Basudeb Pradhan

Respondent : State of Orissa

Judgement :

ORDER

R.N. Misra. C.J.

1. The petitioner is now undergoing the sentences imposed against him in 3 independent Sessions Trials, being Sessions Trial No. 118-C of 1976, Sessions Trial No. 119-C of 1976 and Sessions Trial No. 23-C of 1977, each one for an offence punishable under Section 395, I.P.C. In the first two cases there has been imprisonment of 4 years each while in' the third one, the sentence is 5 years' R.I. The sentences at the moment are obviously consecutive. The application is for the relief of making the sentences concurrent,

2. Reliance on the side of the petitioner is placed upon the directions of this Court in Jail Criminal Misc. Case Nos. 483/79, 846/81 and 277/82 where, even in respect of an offence punishable under Section 395, I.P.C., the benefit of the sentences becoming concurrent has been extended. The learned Additional

Government Advocate on the other hand, relying upon a Full Bench decision of the Allahabad High Court in the case of Mulaim Singh v. State, 1974 Cri LJ 1397, contends that a direction for making the sentences concurrent would be given only at the time when the sentences were being imposed by the trial court and cannot be made at a later stage. There is no clear restriction in the Cr. P.C. itself that a direction for making the sentences to run concurrently cannot be given in exercise of inherent powers. There have been several precedents in this Court apart from the one the petitioner has relied upon now where the revisional court while exercising revisional powers against convictions and sentences has directed the sentences to become concurrent. There have also been instances where independent miscellaneous proceedings have been entertained to extend the benefit. A direction to make consecutive sentences concurrent does not touch the merit of the matter and proceeds on the acceptance of the judgment of conviction as also the quantum of sentence. The inherent power vested in the court is obviously intended for superintending the administration of criminal justice within the jurisdiction of the court with a view to ensuring that ultimate justice is done. If the superior court is not given this power there may be cases where the same accused would suffer convictions in different courts and where judgment would be delivered by two separate courts on the same day or nearabout, it may not be possible for the original court dealing with the case after there have been previous convictions to take note of the sentences awarded in the other cases and modulate its own sentence accordingly. The view taken by the Allahabad High Court that unless directions to make the sentences to run concurrently is made at the time of disposing of a case it cannot be given at a later stage does not appeal to me. At any rate, that view is not being followed in this Court. With due apologies in the circumstances, I am not able to follow the view expressed there,

3. I agree with learned Additional Government Advocate that the petitioner has been found guilty of the heinous crime of dacoity in three separate cases and within a period of two years. Ordinarily, with these three convictions, the petitioner could be taken as a seasoned dacoit and, therefore, no leniency should be shown at the Bar of Justice to him. The petitioner seems to be still in his twenties and is likely to reform if appropriate guidance is given. Counsel on his behalf, faced with the difficulties indicated by learned Additional Government Advocate, has agreed

that if I make the sentences to run concurrently, i. e. direct that the petitioner shall suffer a total period of 5 years imprisonment which is the maximum given in a single case, the petitioner would undertake to suffer the total of sentences as if they were consecutive in the event of being found involved and guilty in any heinous crime including dacoity within a period of 3 years from now, In view of this statement made at the Bar, I am prepared to extend the indulgence to the petitioner of making the sentences in the three cases concurrent If the petitioner suffers a total period of 5 years' R.I, as given in Sessions Trial No. 23/77, he shall be deemed to have suffered the sentences in the other two cases referred to above and in the event of getting involved and being found guilty in any heinous crime including dacoity within a period of 3 years from today, the benefit extended by this order shall not be operative and, as undertaken by the petitioner's counsel, it would be open to the State to take him into custody and ask him to suffer the remaining sentence as if this order had not been made.

This disposes of the miscellaneous case.

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