R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 7408 OF 2026

BETWEEN:

SRI RAMESH
S/O RADHAKRISHNA
AGED ABOUT 29 YEARS
RESIDING AT NO.26
13TH MAIN ROAD, MARIYAPPANAPALYA
K.P.AGRAHARA, MAGADI ROAD
BENGALURU - 560 026
(NOW IN JUDICIAL CUSTODY AT CENTRAL PRISON
IN C.T.P NO. 13324 BENGALURU)

...PETITIONER

(BY SRI DILRAJ ROHIT SEQUEIRA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY K.P. AGRAHARA POLICE STATION
   BENGALURU CITY
   REPRESENTED BY
   THE STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDINGS
   BENGALURU - 560 001.

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

2. STATE OF KARNATAKA
DEPARTMENT OF HOME
VIDHANA SOUDHA
BENGALURU - 560 001
REPRESENTED BY SECRETARY.

3. CHIEF SUPERINTENDENT
CENTRAL PRISON
PARAPPANA AGRAHARA
BENGALURU - 560 100.

…RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I)

THIS CRL.P IS FILED U/S.482 R/W 427 OF THE CR.P.C, PRAYING TO DIRECT THE RESPONDENT JAIL AUTHORITIES THAT THE SENTENCES OF IMPRISONMENT IMPOSED ON THE PETITIONER BY THE LVI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY CCH-57 IN S.C.NO.1171/2019 AND S.C.NO.1359/2016 SHALL RUN CONCURRENTLY INSTEAD OF CONSECUTIVELY U/S.427 OF CR.P.C.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before the Court seeking the following prayer:

> "WHEREFORE, the petitioner most humbly prays that this Hon'ble Court may be pleased to Direct the Respondent Jail Authorities that the sentences of imprisonment imposed on the Petitioner by the LVI Additional City Civil and Sessions Judge, Bengaluru City CCH-57 in S.C.No.1171 of 2019 in S.C.No.1359 of 2016 shall run concurrently instead of consecutively under Section 427 of the Cr.P.C. pass such other orders as this Hon'ble Court deems fit and proper in the interest of justice and equity."

2. Facts in brief, germane, are as follows: -

2.1. For the issue that is brought before the Court it is necessary to take a little walk in history to the crimes registered against the petitioner. The petitioner, 25 years of age, gets embroiled in a crime in Crime No.82 of 2016 for offences punishable under Sections 302 and 307 of the IPC. The petitioner is taken to judicial custody. The Police after investigation file a charge sheet. The matter is now pending consideration in S.C.No.1359 of 2016 for offences punishable under Sections 302 and 307 of the IPC.

2.2. In the year 2019, the petitioner gets embroiled in another crime of threatening of witness in S.C.No.1359 of 2016. This, now becomes proceedings for offences punishable under Sections 195A and 506 of the IPC. Since the other case was pending consideration before the Court of Sessions and this arose out of the same, the concerned Court registers S.C.No.1171 of 2019.

2.3. On 19-08-2022 the petitioner gets convicted of the offence punishable under Sections 195A and 506 of the IPC, pending trial in S.C.No.1359 of 2016 and is sentenced to undergo 5 years simple imprisonment for each of the offences. The petitioner was already in judicial custody. Therefore, the detention already undergone by the petitioner was given a set off and the sentence in both the offences was directed to run concurrently.

2.4. On 06-01-2023 comes the conviction in the first case i.e., S.C.No.1359 of 2016 where the petitioner is convicted and sentenced to undergo imprisonment for life for the offence punishable under Section 302 IPC and rigorous imprisonment for 5 years for offence punishable under Section 307 IPC. The period of

detention undergone by the accused during the trial was also given set off as obtaining under Section 428 of the Cr.P.C. On 15-11-2023 the sentence in the second case get completed in S.C.No.1171 of 2019. As per the custody certificate appended to the petition, the petitioner has undergone 3 years 9 months and 8 days in S.C.No.1359 of 2016 and 6 years 7 months and 1 day in S.C.No.1171 of 2019. The petitioner has spent 10 years and 4 months inside the jail as on the date since 03-06-2016. The present petition is preferred seeking a direction that the sentences of imprisonment imposed on the petitioner in both the cases to run concurrently instead of consecutively as obtaining under Section 427 of the Cr.P.C.

3. Heard Sri **Dilraj Rohit Sequeira**, learned counsel appearing for the petitioner and Sri **B.N. Jagadeesha**, learned State Public Prosecutor-I appearing for the respondents.

4. The learned counsel appearing for the petitioner would contend that subsequent case – S.C.No.1171 of 2019 – was an offshoot of the first case which had occurred when the petitioner

was an under trial prisoner. He would seek to place reliance upon the judgment rendered by the coordinate Bench in **CHAY@SOMA@ RAJESH AND OTHERS v. STATE OF KARNATAKA** – **Criminal Petition No.12023 of 2023** decided on **06-02-2024**. He would contend that both the cases investigated by K.P.Agrahara Police Station involving the same accused person and they were tried within 5 months window.

5. Per contra, the learned State Public Prosecutor appearing for the respondents would vehemently contend that the two offences are distinct. They have occurred in a 3 months' gap. In such circumstances, it cannot be said that it arises out of the same allegation. Threatening the witness was a separate offence which happens 3 years after the petitioner comes out on bail. Therefore, he would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts are all a matter of record. They would not require any iteration. The issue is whether the benefit of concurrent sentence under Section 427 of the Cr.P.C. can be granted to the petitioner. It, therefore, becomes necessary to notice Section 427 of the Cr.P.C. 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.
>
> (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."

Section 427 mandates that when a person is already undergoing a sentence, is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment for life shall commence

at the expiration of the imprisonment to which he has been already sentenced.

8. The interpretation of Section 427 of the Cr.P.C. need not detain this Court for long or delve deep into the matter.

8.1. The Apex Court in **MOHD ZAHID v. STATE**[1], has held as follows:

"…. …. ….

> **17.** Thus from the aforesaid decisions of this Court, the principles of law that emerge are as under:
>
> **17.1.** 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.
>
> **17.2.** 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.
>
> **17.3. The general rule is that where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427CrPC.**

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[1] **(2022) 12 SCC 426**

> **17.4. Under Section 427(1)CrPC 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."**

Several High Courts have considered the purport of Section 427 Cr.P.C.

8.2. The High Court of Gujarat in **SENAUL v. STATE OF GUJARAT**[2] has held as follows:

"…. … ….

> **19. The general principle is that the sentence should take effect immediately on conviction and the same cannot be postponed. Section 427 Cr.P.C. appears to be carving out an exception to the general principle governing execution of sentences when awarded by a Court of law. Sub-section (1) of Section 427, reproduced above, provides that a person who is already undergoing a sentence of imprisonment and is sentenced on a subsequent conviction to imprisonment or imprisonment for life, then such imprisonment or imprisonment for life is to commence at the expiration of the imprisonment, to which he is previously sentenced. This principle, however, is subject to the exceptions carved out in the Section itself and it is to the effect that "unless the Court directs that subsequent sentence shall run concurrently with such previous sentence" (emphasis supplied).** The scheme of the Section, thus, is that a person already

[2] **2018 SCC OnLine Guj.2290**

undergoing a sentence if sentenced to differ subsequent imprisonment, then that subsequent imprisonment is to commence only on the expiry of the previous sentence, unless both the sentences are ordered to run concurrently. Section 31 of the Code of Criminal Procedure also enacts the rule that sentences are to run consecutively unless the Court directs that these should run concurrently. This Section, however, relates to those cases where a person is convicted at one trial of several offences and different/several sentences are awarded to him. Section 427 Cr.P.C. on the other hand, enacts a rule where a person already undergoing the sentence is sentenced to imprisonment in a different trial."

8.3. A coordinate Bench of this Court in **AMBARISH S KAPADIA v. STATE**[3] has held as follows:

" **6.** It is to be noticed that the petitioner in the instant case had made a plea before the XXI Additional City Civil & Sessions Judge & Principal Judge for CBI Cases, Bangalore City in Cr. A. No. 430/2007, for the sentence passed in the appeal to run concurrently with the earlier sentences of imprisonment. The plea, however was rejected by the Special Court, which held that the same could not be countenanced as no such provision was available in law. It further held that the charges against the appellant in each of the cases was of distinct criminal acts and that the same cannot be clubbed together to give the benefit of concurrent running of the sentences. The Special Court also took into account the criminal background of the petitioner and held that the same did not warrant the granting of such relief to the petitioner. Aggrieved by the aforesaid order passed by Special Court, the petitioner has approached this Court.

In so far as the decision relied upon by the Counsel for the petitioner in *Arjun Ram* v. *State of Rajasthan* [[2016] 1 WLN 481.] decided by a Division Bench of the Rajasthan High Court on 19-01-2016, is concerned, it is laid down as follows:—

[3] **2016 SCC OnLine Kar 7456**

> *"We are of the considered opinion that to meet the ends of justice and to rectify the gross error the powers under Section 482 of the CrPC. can be exercised, if Court arrives at a conclusion that the Trial Court, Appellate Court or the Revisional Court, as the case may be, failed in completing the circuit of justice while invoking or not invoking the discretion vested with it as per Section 427 CrPC. The Court while doing so must keep in mind all necessary ingredients and precedents which are to be taken into consideration to exercise the discretion as per Section 427 of the CrPC."*

Though the Division Bench has held that the use of the inherent power under Section 482 CrPC is justified for an order under Section 427 CrPC, such power can only be exercised if the Trial Court, Appellate Court or the Re-visional Court has failed in its duty in securing the ends of justice, which would again be subject to consideration of the facts and circumstances of the case.

It cannot be said that the Court below in the present case has failed in its duty to ensure justice to the petitioner while rejecting the plea of the petitioner. The Special Court in Cr. A. No. 430/2007 while rejecting the petitioner's plea, has taken into consideration all the relevant circumstances and observed that the charge against the petitioner in each of the charge sheets was a distinct criminal act and that the same cannot be clubbed together. Therefore, the petitioner cannot be given the benefit as sought for by him.

The Special Court has also observed the background of the petitioner who has been convicted under 6 different cases, which would indicate that the petitioner is a habitual offender. It is apposite here to refer to a Judgment of the High Court of Punjab and Haryana in the case of *Jang Singh* v. *State of Punjab* [ILR (2007) 2 P&H 550.] , wherein it was observed that:—

> *"It may also have to be kept in view that if principle of concurrency is applied in cases where the offender is habitual, it may repel the very basic and normal rules as laid down in Section 427 CrPC. <u>If such principles are universally applied unmindful to such consideration of the offender being habitual, then it may lead to hostile discrimination negatively because then it would amount</u>*

to giving similar treatment to a normal as well as a habitual offender."

Further, the Counsel for the petitioner has also relied upon three judgments of this Court, where it has exercised its inherent power in passing the orders directing concurrent running of sentences. However, the facts in each of the cases are considerably different from the facts and circumstances as in the present case.

In the case of *Vazeer Ahmed Salik* v. *State by CBI* [Crl. P. No. 7868/2015, decided on 22/3/2016.] , in the petitioner was convicted and sentenced to imprisonment under 5 different cases for seven to ten years in each of the cases for offences punishable under various Sections of the IPC. The petitioner therein had already undergone imprisonment for a period of 14 years. He was aged about 72 years and if this Court had not passed an order under Section 427(1) of the Code for the sentences to run concurrently, the petitioner would have had to undergo imprisonment for a total period of 35 years, which would have resulted in a grave miscarriage of justice as he would have to undergo imprisonment till his death.

In the case of *Sunil Kumar* v. *State of Karnataka* [Crl. P. No. 6346/2015, decided on 10/12/2015.] , the petitioners were convicted and sentenced to imprisonment under seven different cases. They were under judicial custody for a period of 7 years. This Court observed that if the sentences were to run consecutively, they would have to undergo imprisonment for a total period of 3 9 years, as if they were serving a major punishment for life. Therefore, to prevent such miscarriage of justice, the various sentences of imprisonment were ordered to run concurrently.

In the case of *Vadiraja* v. *State* [Crl. P. No.6974/2015, decided on 23/11/2015.] , the petitioner was convicted and sentenced to serve imprisonment by the Sessions Court in three different cases for offences punishable under Sections 392 and 413 IPC for a term of 7 years for each case. However, on appeal before this Court the sentence was modified by reducing the period of imprisonment to 5 years. The petitioner therein filed a separate application under Section 482 praying for the sentences to run concurrently. This Court took into

consideration the fact that the petitioner was a poor person who had the responsibility of maintaining his family. The Court thus considered it appropriate to exercise the inherent power and give effect to Section 427(1) and thereby ordered the different cases to run concurrently.

Section 482 CrPC being an extraordinary power, cannot be pressed in aid except for remedying a flagrant abuse by a Subordinate Court of its powers. However, in the instant case, the Court below has exercised its powers reasonably and has provided sufficient reasons for the exercise of its discretion.

Therefore, the refusal of the Court below to direct the sentences to run concurrently with the previous sentence cannot be said to have caused any miscarriage of justice.

In *Rajendra B. Choudhari* v. *State of Maharashtra* [2007 Cri. LJ 844.] , which has been relied upon by the respondent, a Division Bench of the Bombay High Court, expressing its opinion with regard to the exercise of discretionary power under Section 427 has stated thus:

> ***"However, the Court has to be cautious in exercising such a power and has to ensure that the deterrent effect of the sentence is not lost. The sentences should not be directed to run concurrently if to do so would make the sentences ineffective or the crime inconsequential. If several sentences are allowed to run concurrently the crime may go unpunished."***

Reliance is also placed on *M.R. Kudva* v. *State of A.P.* [(2007) 2 SCC 772.] , wherein it is laid down that when sub-Section (1) of Section 427 has not been invoked for the concurrent running of the sentences either in the original case or in the appeal, a separate application for the same cannot be made before the High Court under Section 482 of the CrPC. It was laid down that the High Court could not have exercised its inherent jurisdiction in a case of this nature as it had not exercised such jurisdiction while passing the judgment in appeal.

It was also observed with reference to ***Mohd. Akhtar Hussain* v. *Asst. Collector of Customs*** **[(1988) 4 SCC 183.] , that if a given transaction constitutes two offences under two enactments generally, it is wrong to have two consecutive sentences**. It was, however, opined that it would be proper and legitimate to have concurrent sentences; but at the same time it was held that the rule would have no application if the facts constituting the same offences are quite different.

In the present case, there is no error of law apparent on the face of the record, nor can it be said that the order of the Trial Court has led to any miscarriage of justice.
Therefore, the petition is dismissed.

... ...

8. In the above background, it is relevant to notice Section 427(2) of the CrPC, which reads as under:

> **"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."**
>
> **The meaning of a sentence of imprisonment for life is no longer *res integra*. In the case of *Gopal Vinayak Godse* v. *State of Maharashtra* [AIR 1961 SC 600.] , the Apex Court has laid down that a sentence of imprisonment for life must *prima facie* be treated as a sentence of imprisonment for the whole of the remaining period of the convicted person's natural life unless commuted or remitted by the appropriate authority. In such a situation the question of a subsequent sentence running consecutively does not arise and consequently, the subsequent sentence, irrespective of whether the sentence is an imprisonment for life or an imprisonment for a specific term can only be superimposed upon the earlier sentence of life imprisonment and certainly not added to it."**

8.4. The High Court of Bombay in **RAJENDRA v. STATE OF MAHARASHTRA**[4] has held as follows:

"…. …. ….

> **6.** Lastly, it is contended that the Magistrate ought to have directed that the sentences imposed in these trials should run concurrently with the previous sentence, in view of section 427 of the Code. According to learned counsel, it is permissible for this Court to give such a direction to meet the ends of justice. **Section 427 of the Code confers discretionary power on the Court to direct the sentence of imprisonment on a subsequent conviction to run concurrently with the previous sentence, if the accused is already undergoing a sentence of imprisonment. This power has to be exercised at the time of awarding subsequent sentence by the trial Court and can be exercised by the High Court while dealing with appeal or revision. Incidentally, the question arises whether in absence of appeal or revision, the direction sought for can be given by the High Court by invoking inherent powers available under section 482, Criminal Procedure Code. The High Court cannot exercise its inherent power under section 482 of the Code to direct the subsequent sentence to run concurrently with the previous sentence.** The inherent power of the High Court can be exercised only to give effect to the orders passed under the Code or to prevent miscarriage of justice. It is not obligatory for the trial Court to direct in all cases that the subsequent sentence shall run concurrently with the previous sentence. The order passed by the trial Court without having recourse to section 427 is perfectly legal and enforceable. Thus, refusal of the Magistrate to direct the subsequent sentence to run concurrently with the previous sentence cannot lead to causing miscarriage of justice. Therefore, in such a situation, there can be no justification for exercising inherent power of the Court as there is no necessity to exercise the jurisdiction to give effect to any order passed

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[4] **2006 SCC OnLine Bom 934**

under the Code or to prevent miscarriage of justice. In this view of the matter it is not open to this Court to exercise its inherent power to direct the subsequent sentence to run concurrently with the previous sentence. At this stage, we deem it necessary to observe that though it is not obligatory on the learned Magistrate to direct subsequent sentence to run concurrently with the previous sentence, it is the duty of the prosecutor to bring to the notice of the Court that the accused is already undergoing earlier sentence so that, the final order can be passed by the Magistrate after consideration of relevant factors. While dealing with the aspect of the exercise of inherent powers by High Court, similar view is taken by Full Bench of Delhi High Court in the matter of *Gopal Dass* v. *The State*, reported in AIR 1978 Delhi 138. In para No. 7 of the report it is observed that:

> "……. The inherent powers of the High Court inhere in it because of its being at the apex of the judicial set up in a State. The inherent powers of the High Court, preserved by section 482 of the Code, are to be exercised in making orders as may be necessary to give effect to any order under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 482 envisages that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court exercised by it with the object of achieving the above-said three results. It is for this reason that section 482 does not prescribe the contours of the inherent powers of the High Court which are wide enough to be exercised in suitable cases to afford relief to an aggrieved party. While exercising inherent powers it has to be borne in mind that this power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. (See *R.P. Kapur* v. *State of Punjab*, AIR 1960 SC 866). This principle of law had been reiterated succinctly by the Supreme Court recently in *PalanioappaGounder* v. *State of Tamil Nadu*, (1977) 2 SCC 634: AIR 1977 SC 1323. Therein examining the scope of section 482 it was observed that a provision which saves the inherent powers of a Court cannot override any express provision in the statute which saves that power. Putting it in another form the Court observed that if there is an express provision in a statute governing a particular subject there is no scope for invoking or exercising the inherent powers of the Court because the Court ought to

> apply the provisions of the statute which are made advisedly to govern the particular subject-matter."

(Emphasis supplied at each instance)

8.1.1. The Apex Court in **MOHD ZAHID** holds that general rule is that where there are different transactions, different crime numbers and cases have been decided by different judgments, concurrent sentence cannot be awarded under Section 427 of the Cr.P.C.

8.2.1. The High Court of Gujarat in **SENAUL** holds that general principle cannot become a universal application. Section 427 carves out an exception to the general principle governing execution of sentences. Unless the Court directs the sentences to run concurrently, despite the fact that both of them are arising out of the same incident, the Court would not interfere.

8.3.1. The coordinate Bench of this Court in **AMBARISH S KAPADIA** holds that power under Section 482 can be exercised for interpretation of Section 427, only if there is flagrant abuse by a subordinate Court of its powers.

8.4.1. The High Court of Bombay in **RAJENDRA** holds that concurrency should not be so directed where it would render the sentence ineffective or leave a crime unpunished.

9. On the bedrock of the principles laid down by the Apex Court and that of different High Courts, if the facts in the case at hand would be noticed, the benefit of Section 427 would not become applicable to the petitioner. The issue in the case at hand is whether the petitioner who has been convicted and directed to undergo term sentence in previous trial is entitled to the benefit of running the sentence concurrently.

10. The second crime he gets involved is in the year 2019 and the trial gets completed fast. He is convicted on 19-08-2022. This crime itself was registered 3 years after the earlier registration of crime. 5 months thereafter another order of conviction come out where he was awarded imprisonment for life. Without much *ado*, the interpretation of Section 427 of the Cr.P.C., cannot benefit the case of the petitioner, as they have not happened simultaneously. They may be springing out of one solitary case, though not *stricto*

senso, but the cause of action is entirely different. Therefore, the benefit of concurrent sentencing under Section 427 of the Cr.P.C., will not become applicable to the case of the petitioner.

11. For the aforesaid reasons, finding no merit in the petition, the petition stands **dismissed.**

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP