

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 339-340 OF 2016

(Arising out of SLP (Crl.) Nos. 3890-3891 of 2014)

PRAKASH VERMA

Appellant (s)

VERSUS

STATE OF RAJASTHAN ETC ETC

Respondent(s)

O R D E R

1) Delay condoned.

2) Leave granted.

3) The only point for determination in these appeals is whether the accused-appellant be tried for one transaction with regard to the same set of facts, the offence being a continuing offence, although separate trials were conducted in two different Courts because the jurisdiction of the Courts are different, one being the State of Rajasthan and the other held within the domain of the State of Haryana.

4) Learned counsel for the appellant submits that the appellant has already undergone the sentence of 10 years with respect to the first FIR, as has been directed by the High Court, in respect of the charges framed against him under Sections 392, 397 and 411 of the Indian Penal Code and sentence of second FIR has not yet started.

5) The facts of the case are briefly narrated as follows:-

a) On 08.03.2003 at about 6.20 p.m., Sub inspector Onkar Singh,

SHO, Police Station Shahjanpur along with other police officials laid a picket for checking the vehicles on Delhi Jaipur Road.

b) At about 6.45 p.m., a Qualis vehicle bearing Regn. No. RJ 27 1C/3403 was coming from Delhi side. On seeing the police party, the driver of the said vehicle speeded up the vehicle towards the approach road leading to town Shahjanpur. The police party, on suspicion, chased the said vehicle and got stopped. The vehicle was being driven by accused Ajit Singh (who is declared a proclaimed offender) and the present appellant - Prakash Verma was sitting in the said vehicle. The documents of the vehicle were checked and the driving license belonged to Hanuman Sahai (since deceased) whereas the registration certificate of the vehicle was found in the name of Likhma Ram, brother of the deceased.

c) On interrogation, both the accused disclosed that they had hired the said vehicle on 07.03.2003 from Jaipur and left Jaipur at about 9.45 p.m. for going to the Delhi Airport. The vehicle was being driven by Hanuman Sahai, since deceased and at about 1.30 a.m. when they reached near village Gorakhpur Bawal within the State of Haryana on NH No.8, they asked the driver to take the vehicle to the approach road leading towards the village Harchandpur, as the sister of accused Ajit Singh was married in that village. After covering a distance of about one and a half kilometer, the accused got stopped the vehicle on the pretext of urination. The deceased driver also got down. The appellant herein caught hold of the deceased whereas accused Ajit Singh gave knife blows and threw the body in the mustard field. Thereafter,

they took the vehicle and went to village Bhankli where the in-laws of the accused Ajit Singh were residing.

d) On 08.03.2003 at about 4.30 p.m., they started their return journey from that place to Jaipur. An FIR was lodged against the accused persons under Sections 392, 397 and 411 of the IPC at P.S. Shahjanpur, District Alwar, Rajasthan and another FIR was lodged for the offence committed under Sections 302 and 201 as well as Section 404 IPC at P.S. Bawal, District Rewari, Haryana. The trial was duly held by the respective Courts.

6) We have heard Ms. Aishwarya Bhati, learned counsel appearing for the appellant, Mr. Kunal Verma, learned counsel appearing for the State of Rajasthan and Dr. Monika Gusain, learned counsel appearing for the State of Haryana.

7) We have given our thoughtful consideration to the matter and perused the materials on record.

8) It appears to us that the appellant was convicted on both the counts by both the Sessions courts, as confirmed by the High Courts, one for 10 years under Sections 392 and 397 by the Rajasthan High Court and in the other for imprisonment for life under Section 302 by the Punjab and Haryana High Court.

9) It also appears to us if it can be taken the starting point of the matter in question and the offence committed by the accused is really one prosecution starting from the offence committed under Section 392 and thereafter the conviction was also directed against the appellant under Sections 302, 404 and 201 of the IPC. In both the cases, the appellant was convicted.

10) The case of the appellant at this stage before us is that he has already served the sentence of 10 years awarded to him by the Trial Court as affirmed by the High Court of Rajasthan. It is only an endeavor on the part of the appellant to get orders from the Court directing the sentences to run concurrently so that the benefit can be earned by him.

11) Learned counsel appearing for the appellant, in support of the case relied upon the decisions of this Court in *O.M. Cherian alias Thankachan vs. State of Kerala and Others*, (2015) 2 SCC 501 and *V.K. Bansal vs. State of Haryana and Another*, (2013) 7 SCC 211 and contended that the single transaction has to be taken into account and the conviction on the basis of the different complaints were filed in relation thereto, the sentences were directed to run concurrently under Section 327 of the Cr.P.C. We have noted that in the case of *V.K. Bansal* (supra), this Court has stated thus:

"16. In conclusion, we may say that the legal position favours exercise of discretion to the benefit of the prisoner in cases where the prosecution is based on a single transaction no matter different complaints in relation thereto may have been filed as is the position in cases involving dishonour of cheques issued by the borrower towards repayment of a loan to the creditor."

12) In view of that, we accept the contention raised before us on behalf of the appellant and treat the prosecution as one in committing such offences, although tried in different courts. But it cannot be brushed aside that all those offences are coming out

of one transaction.

13) Keeping in view the totality of the facts and circumstances of the case, we direct that the sentences awarded by the Trial Courts to the appellant in the matter, shall run concurrently.

14) The appeals are allowed to the extent as indicated above.

.....J
(PINA KI CHANDRA GHOSE)

.....J
(SHIVA KIRTI SINGH)

NEW DELHI;
April 12, 2016.

ITEM NO.25

COURT NO.10

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Cr1. A. Nos. 339-340/2016 Arising out of Special Leave Petition
(Cr1.) No(s). 3890-3891/2014

(Arising out of impugned final judgment and order dated
26/09/2007 in SBCRA No. 1689/2003 06/09/2013 in CRA No. 850/2006
passed by the High Court Of Punjab & Haryana At Chandigarh)

PRAKASH VERMA

Appellant (s)

VERSUS

STATE OF RAJASTHAN ETC ETC

Respondent(s)

(With appln. (s) for c/delay in filing SLP, exemption from filing
O.T., Bail and Office Report)
(for final disposal)

Date : 12/04/2016 These appeals were called on for hearing
today.

CORAM : HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Ms. Aishwarya Bhati, AOR
Mr. T. Gopal, Adv.
Ms. Eshitha Kapur, Adv.
Ms. Heena Khan, Adv.

For Respondent(s) Mr. Kunal Verma, Adv.
Ms. Yugandhara Jha, Adv.
Mr. Prasanna Mohan, Adv.
Mr. Milind Kumar, AOR
Dr. Monika Gusain, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeals are allowed to the extent as indicated in the
signed order.

Pending application(s) stand disposed of.

(R.NATARAJAN)
Court Master

(SNEH LATA SHARMA)
Court Master

(Signed order is placed on the file)