

(2013) 09 BOM CK 0125

In the Bombay High Court

Case No : Criminal Writ Petition No. 157 of 2013

Bharat Ratiram Gharat

APPELLANT

Vs

The State of Maharashtra and Another

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 166

Hon'ble Judges : Z.A. Haq, J;B.R. Gavai, J

Bench : Division Bench

Advocate : F.N. Haidari, appointed, for the Appellant; R.S. Nayak, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Z.A. Haq, J.—Heard Ms. Haidari, learned Advocate for the petitioner and Mr. Nayak, learned Additional Public Prosecutor for the respondents. Rule. Rule is made returnable forthwith.

2. The petitioner is convicted in R.C.C. No. 3630 of 2011 by the judgment dated 12th July, 2012 for the offences punishable under Sections 457 and 380 of the Indian Penal Code. The petitioner is also convicted in another crime bearing No. 139 of 2011 by the judgment dated 20th July, 2012 for the offences punishable under Sections 457 and 380 of the Indian Penal Code. The petitioner has prayed that the sentences given by the above referred two judgments be directed to be running concurrently. The petitioner has relied upon the Full Bench judgment of this Court reported in Satnam Singh Puransing Gill Vs. The State of Maharashtra, . In this judgment, it is held that while exercising powers u/s 427 of the Code of Criminal Procedure, the Court should exercise discretion on well guided principles enunciated by the judgments of the Courts. In the judgment, it is laid down that the Court passing an order of imprisonment upon a subsequent conviction of an accused who is already undergoing a sentence of imprisonment awarded in an earlier case, has power to direct that the subsequent sentence awarded is to run consecutively or concurrently. It is laid down that while

deciding this question, the Court would normally take into consideration the facts of the previous conviction, the circumstances, the conduct of the accused, nature of the crime and the sentence awarded by the previous Court. It is laid down similar factors of the subsequent conviction would have to be considered cumulatively by the Court before it exercises its judicial discretion directing the running of sentences to be consecutive or concurrent.

3. In the present case, the petitioner committed second crime for which he is convicted, while having been released on bail. Considering this fact, we are not inclined to exercise the discretion in favour of the petitioner. Writ Petition is therefore, dismissed with no order as to costs. Rule is discharged. Fees payable to the learned Advocate appointed for the petitioner are quantified at Rs. 1000/-.