
(2011) 05 P&H CK 0167
In the Punjab And Haryana At Chandigarh
Case No : Criminal Rev. No. 1291 of 2010

Gurparshad

APPELLANT

Vs

Superintendent, Central Jail

RESPONDENT

Date of Decision : 20-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 427, 427(2)
Penal Code, 1860 (IPC) — Section 120B, 147, 149, 201, 302
Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 — Section 9

Citation : (2011) 05 P&H CK 0167

Hon'ble Judges : Jora Singh, J

Bench : Single Bench

Judgement

Jora Singh, J.—Gurparshad filed this revision to challenge the judgment dated 7.1.2010 passed by Additional Sessions Judge, Ferozepur, whereby appeal against the judgment dated 4.12.2007 by CJM, Ferozepur, was dismissed.

2. As per judgment of CJM, Ferozepur, Petitioner was convicted u/s 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, "the Act"), and directed to undergo RI for four months.

3. Story, in brief, is that FIR No. 12 dated 12.2.1994 under Sections 147/120-B/364/302/149/302/149/201 IPC, PS City Ferozepur, was registered against the Petitioner and in this case, Petitioner was on parole with direction to surrender after the expiry of parole on 7.2.2006, but he did not surrender on 7.2.2006. He had surrendered in jail on 18.5.2006 and over stayed 100 days. Ultimately, Petitioner was convicted u/s 9 of the Act and directed to undergo RI for four months.

4. Learned Counsel for the Petitioner argued that in FIR No. 12 dated 12.2.1994, Petitioner is undergoing life imprisonment. Subsequent sentence u/s 9 of the Act was not made concurrent in view of Section 427(2) Code of Criminal Procedure.

5. Learned State counsel argued that Petitioner is undergoing life imprisonment.

While on parole, over stay of 100 days. Learned State counsel frankly admitted that in view of Section 427(2) Code of Criminal Procedure, subsequent sentence for jail offence should be concurrent.

6. Admittedly, Petitioner was convicted in FIR No. 12 dated 12.2.1994 and was directed to undergo life imprisonment.

7. In FIR No. 12 dated 12.2.1994, Petitioner was on parole but over stayed. On account of over stay of 100 days, Petitioner was convicted and sentenced u/s 9 of the Act as stated aforesaid. But as per judgment of trial Court, punishment under the Act was in addition to the punishment in FIR No. 12 dated 12.2.1994. Appeal against the judgment of trial Court was dismissed by the first Appellate Court but no reasoning was given as to why both the sentences should not to run concurrently.

Section 427 Code of Criminal Procedure is reproduced as under:

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 to which he has been previously sentenced, unless the Court directs that the subsequent shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order u/s 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.

8. In view of Section 427(2) Code of Criminal Procedure, when the Petitioner was already undergoing a sentence of life imprisonment in FIR No. 12 dated 12.2.1994, then subsequent sentence u/s 9 of the Act, i.e., for jail offence, shall run concurrently with the previous sentence, i.e., in FIR No. 12 dated 12.2.1994.

9. In view of all discussed above, revision is partly allowed. Impugned judgment is upheld on the point of conviction but in respect of sentence, subsequent sentence for jail offence is ordered to run concurrently with the sentence in FIR No. 12 dated 12.2.1994.

Revision is disposed of accordingly.