(2016) 12 DEL CK 0089

In the Delhi High Court

Case No : Criminal Rev. P. 745 of 2015 and Crl. M.A. No. 18368 of 2015 with Crl. Rev.P. 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157 & 158 of 2016

Shree Sainath Wires Pvt. Ltd. APPELLANT

Vs

PEC Limited RESPONDENT

Date of Decision : 20-12-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357, Section 427
Negotiable Instruments Act, 1881 (NI) — Section 138, Section 141

Citation : (2017) ACD 133 : (2017) 2 CriCC 185 : (2017) 236 DLT 190 : (2017) 1 NIJ 484

Hon'ble Judges : Mr. I.S. Mehta, J.

Bench : Single Bench

Advocate : Mr. Izhar Ahmad, APP, for the State; Mr. Sanjeev Narula, Advocate, for the Respondent; Ms. Rebecca M. John, Sr. Advocate with Mr. Bhavesh Chauhan, Mr. Harsh Bora, Mr. Nikhil Ahuja and Mr. Paulson, Advocates, for the Revisioninsts

Final Decision : Disposed Off

Judgement

Mr. I.S. Mehta, J. - The instant revision petitions, i.e., (1) Crl Rev.P. 745/2015, (2) Crl Rev.P. 141/2016, (3) Crl Rev.P. 142/2016, (4) Crl Rev.P. 143/2016, (5) Crl Rev.P. 144/2016, (6) Crl Rev.P. 145/2016, (7) Crl Rev.P. 146/2016, (8) Crl Rev.P. 147/2016, (9) Crl Rev.P. 148/2016, (10) Crl Rev.P. 149/2016, (11) Crl Rev.P. 150/2016, (12) Crl Rev.P. 151/2016, (13) Crl Rev.P. 152/2016, (14) Crl Rev.P. 153/2016, (15) Crl Rev.P. 154/2016, (16) Crl Rev.P. 155/2016, (17) Crl Rev.P. 157/2016 and (18) Crl Rev.P. 158/2016, are arising out of the impugned judgment and order dated 03.11.2015 passed by the Additional Sessions Judge, Patiala House Courts in Crl Apl No 35/2014 thereby rejecting the criminal appeal against the judgment and order on sentence dated 30.05.2014 passed by the Civil Judge-1/MM, New Delhi District in the following 18 complaint cases, i.e., (1) CC No. 894/2011, (2) CC No. 909/2011, (3) CC No. 899/2011, (4) CC No.

903/2011, (5) CC No. 910/2011, (6) CC No. 911/2011, (7) CC No. 906/2011, (8) CC No. 907/2011, (9) CC No. 898/2011, (10) CC No. 905/2011, (11) CC No. 904/2011, (12) CC No. 157/2013, (13) CC No. 902/2011, (14) CC No. 912/2011, (15) CC No. 901/2011, (16) CC No. 900/2011, (17) CC No. 908/2011 and (18) CC No. 897/2011, wherein the revisionists in the above mentioned complaint cases were sentenced to undergo simple imprisonment for one year for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and were liable to pay a fine of Rs. 51 lakhs as compensation to the respondent/complainant and in default of payment the revisionist no.2 Mr. Satpal Jain was directed to undergo further simple imprisonment for a period of six months.

2. The brief facts stated are that the respondent-PEC Limited, registered office at Hansalya, 15, Barakhamba Road, New Delhi - 110001, is a wholly owned public sector company incorporated under the Indian Companies Act, 1956. The respondent/complainant company is in the business of exports, imports, deemed exports, third country trading, arranging finance, logistics, project exports and management. The respondent company had filed 18 complaint cases under Section 138 read with 141 of Negotiable Instruments Act, 1881 qua against the present revisionists and two other persons, i.e., Ms. Shakuntala Mittal and Mr. Ajay Jain (Directors of M/s Shree Sainath Wires Pvt.Ltd.).

3. It is stated that revisionist no.1 company i.e., Shree Sainath Wires Pvt. Ltd. & Anr., is in the business of manufacture, supply and export of M.S. & G.I. Wires and the revisionist no. 2 i.e., Mr. Satpal Jain is the Managing Director of the said company. Thereafter, the revisionist approached the respondent for assistance to effect import of 5050 MT(+-5%) and 1350 MT (+-5%) of Prime Hot Rolled Wire Rods from M/s Rizhao Steel Wires Co. Ltd. and Ever Gain International Corporation, Hong Kong respectively. The respondent/complainant, at New Delhi, entered into two agreements dated 18.03.2008 and 03.04.2008, described as ''Associateship Agreements'' to effect import of the said goods from the foreign suppliers.

4. After the said agreements were executed, the respondent/complainant imported the said goods from the foreign suppliers vide two letters of credit bearing no. DCGLC 9032-/08 dated 19.03.2008 and DCGLC 9041-N 08 dated 09.04.2008. Thereafter, the revisionists and respondent entered into two agreements at New Delhi dated 13.05.2008 and 26.06.2008 described as ''High Seas Sale Agreements'' by which the said goods were purchased by the revisionists from the respondent/complainant in terms of the previous two Associateship Agreements. The total quantity of goods imported by the respondent and as purchased by the revisionists were 4938.676 MT worth USD 4, 370, 728.27 under LC No. 9032 and 1372.633 MT worth USD 1,365,769.84 under LC No. 9041.

5. Furthermore, the revisionists had issued undated PDCs to the respondent/complainant to secure payments of the goods purchased by the respondent/complainant. On the basis of the representations made by the revisionists, the

possession of the goods imported were handed over to the revisionists which revoked its charge and released the same from its pledge. Thereby, the respondent/complainant received physical delivery of the said goods.

6. It is stated in the complaint that the respondent/complainant had made payments to the bankers/foreign suppliers of the said goods on 10.02.2009 and 22.05.2009. Several letters were written to the revisionists for the payment of the outstanding amounts but the revisionists failed to make any payment. In the last letter dated 11.03.2010, the respondent/complainant requested the revisionists to make payment of its outstanding amounts with up to date interest amounting to Rs.9,89,44,149/- by 15.03.2010. The revisionists in response to said letter wrote a correspondence dated 24.03.2010 admitting their liability but failed to make any payments. As on 31. 03.2010, the total outstanding liability of the revisionists was of Rs. 9,94,98,634/- against the said imports. The respondent/complainant under the above circumstances presented the cheques issued by the revisionists for collection on its bank but the same were returned unpaid with the remarks "Exceeds Arrangements" as per the return memo. Thereafter , the respondent/complainant issued legal notices against the revisionists but the revisionists failed to make the payments. Consequently, the respondent/complainant filed 18 complaints qua against the revisionists under Section 138 read with Section 141 if the NI Act. The details of the cheques presented for payment is given below:

S No. CC No. Cheque No. & date Amount Return memo Demand notice

1 894/2011 274795 dt.31.03.2010 Rs.50,00,000/- 12/06/10 29.06.2010

2 909/2011 274792 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

3 899/2011 274653 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

4 903/2011 274651 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

5 910/2011 274659 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

6 911/2011 274659 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

7 906/2011 274793 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

8 907/2011 274790 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

9 898/2011 274789 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

10 905/2011 274791 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

11 904/2011 274787 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

12 157/2013 274788 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

13 902/2011 274655 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

14 912/2011 274654 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2010

15 901/2011 274657 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

16 900/2011 274658 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

17 908/2011 274785 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

18 897/2011 274786 dt.31.03.2010 Rs.50,00,000/- 31.03.2010 26.04.2010 sent on 27/28.04.2 010

7. The learned Metropolitan Magistrate after looking into the facts of the complaint cases and perusal of the records convicted the present revisionists and acquitted the other two accused, i.e., Ms. Shakuntala Mittal and Mr. Ajay Jain (Directors of M/s Shree Sainath Wires Pvt. Ltd.). Vide judgment and order on sentence dated 30.05.2014 the learned Metropolitan Magistrate sentenced the present revisionists to undergo simple imprisonment for one year for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and directed them to pay a fine of Rs. 51 lakhs as compensation to the respondent/ complainant and in default of payment the revisionist no.2 Mr. Satpal Jain was directed to undergo further simple imprisonment for a period of six months in each complaint cases.

8. Thereafter the revisionists aggrieved from the judgment and order on sentence dated 30.05.2014 filed 18 appeals before the learned Additional Sessions Judge and the learned Additional Sessions Judge dismissed the appeals vide a single order dated 03.11.2015.

Hence the present revision petitions.

9. The learned senior counsel appearing for the revisionists submits that she does not wish to argue the present revision petitions on merit of the impugned judgment. However, she submits that these are 18 connected matters arising out of 18 complaints. She further submits that originally 20 criminal complaints under Section 138 of the Negotiable Instruments Act,1881 were filed by the

respondent/complainant (respondent No. 1 herein) against the present revisionists. In the two complaints bearing C.C.No.895/2011 and C.C.No.896/2011, the revisionists were acquitted and in the remaining 18 complaints, the revisionists were convicted and sentenced to undergo simple imprisonment of one year and fine/compensation of Rs.51 lakhs in each complaint case and in default of payment of the said fine/compensation amount, to further undergo simple imprisonment of six months. The learned senior counsel further submits that in each complaint cases, challenge was to the dishonour of cheque amounting to Rs.50 lakhs. According to the learned senior counsel, the cheques dates are the same. She further submits that in Crl. Rev.P. 745/2015, the cheque return memo was dated 12.06.2010 whereas in the remaining 17 petitions, the cheque return memos are dated 31.03.2010. Further, in Crl. Rev.P. 745/2015, the legal notice was dated 29.06.2010 whereas in the remaining 17 petitions the legal notice was dated 26.04.2010. It is further submitted on behalf of the revisionists that receipt of the legal notice is not disputed by the revisionists in all the 18 cases, however, despite the receipt of said legal notices the payment of the cheques amount were not made by the revisionists. The order on sentence is dated 30th May, 2014 and is placed on record of the paper book (in Crl.Rev.P. 745/2015). The learned senior counsel further contends that the respondent No. 2 prosecuted the present revisionists for the offence under Section 138 N.I. Act in 20 complaint cases, out of which in 2 complaint cases the revisionists stand acquitted, however, in 18 complaint cases the revisionists have been convicted and sentenced awarded was one year and 51 lakhs in each case and which is the subject matter of the present revision petitions.

10. The learned senior counsel has pointed out that the Court below went wrong while passing Rs. 51 lakhs as compensation in each complaint case and further subjected the revisionist to default sentence in case of non-payment of the compensation. The compensation does not keep the head of default. However, according to the learned senior counsel, the Hon''ble Supreme Court in the case of R. Mohan v. A.K. Vijaya Kumar and A.K. Vijaya Kumar v. R. Mohan, reported at 2012 (8) SCC 721 on this point has allowed the default sentence in case of failure/ non-payment of compensation amount by the accused person. She has further drawn the attention of this Court to Section 219 of Cr.P.C. and contends that while putting the criminal law into motion the liberty of the accused should be kept in mind. According to her, under Section 219 of Cr.P.C., three offences of the same kind can be charged together in one year indicating that the order on sentence should be concurrent and not separate in each complaint case. However, in the instant revision petitions, there are 18 convictions and the cheques issued were of the same date and pertaining to the same transaction and this ipso facto is sufficient to reach to the conclusion that the offence is one and the same and there are no distinct offences committed by the revisionists to impose Section 138 read with Section 141 of N.I. Act for different causes of actions.

11. The learned senior counsel further submits that though the substantive sentence awarded to the revisionists is one year, however, in effect it comes to 18 years in 18 complaints plus default sentence of 9 years (6 months each in 18 complaints). Thus, the total sentence awarded to the revisionists comes to 27 years which is more than life imprisonment and the same cannot be sustained in law.

12. The learned senior counsel has further submitted that as far as substantive sentence is concerned, it should be concurrent. Where the transaction was same and the cheques were of the same date and evidence had taken place in one case, the learned Metropolitan Magistrate should had made the sentences concurrent. The learned senior counsel for the revisionists has relied upon the case of Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti v. Assistant Collector of Customs (Prevention), Ahmedabad and Another reported in 1988 4 SCC 183 and Shyam Pal v. Dayawati Besoya & Anr. reported in 2016 SCC Online SC 1208, wherein the Hon''ble Supreme Court has categorically stated that, where second offence is similar to the first offence, then the sentence should be concurrent. Only where second offence is different and distinct from the first offence, the sentence should run consecutively. All the 18 sentences are arising from similar transaction therefore, sentence should have been concurrent and the revisionists should be sentenced to one year only. The learned senior counsel has further submitted that so far as the default sentences are concerned the default sentences must run consecutively and not concurrently.

13. The learned senior counsel has further submitted that in 18 default cases the default sentences comes to 9 years and by taking the invocation of Section 219 of Cr.P.C. wherein three consecutive acts to be taken together comes 6 cases and default sentence is 6 months in each case so it will become three years. The learned senior counsel further submits that this is the maximum if at all the learned Metropolitan Magistrate could have awarded.

14. The learned senior counsel has further submitted that the revisionist no.2 is serving sentence since 3rd November, 2015, i.e., over a year has passed. The revisionist is a senior citizen and the learned Metropolitan Magistrate could have given a lesser sentence.

15. The learned senior counsel has drawn the attention of this Court towards Section 30 and Section 31 of Cr.P.C. which deals with sentence of imprisonment in default of fine and sentence in cases of conviction of several offences at one trial. She has further submitted that the order of sentence is per se illegal and liable to be set aside. The learned senior counsel has further brought the attention of this court to the order passed in this case on 17.03.2016.

16. The learned senior counsel has given the following options to be considered by this court:

a) Substantive sentence should be made concurrent.

b) Default sentence be given keeping in mind of Section 219 Cr.P.C. wherein it comes to 18 cases will come to 6 cases and default sentence will come to 36 months. It is further pleaded by the learned senior counsel for the revisionists that considering the age of the revisionist, the default sentence should be further reduced to satisfy the ends of justice and not more than 36 months.

17. On the other hand, the learned counsel for the respondent/complainant has submitted that there is no arguments made on the side of merit, therefore conviction qua against the revisionists requires no interference by this Court. The concurrent running of sentence got two limbs, one Substantive sentence and second Default sentence under Section 357(3) of Cr.P.C. The respondent/ complainant is a Government company and admittedly the compensation amount has not been paid. The learned counsel for the respondent has pointed out that the default amounts are cheque amounts of the Government money and the intent of the lower Court is to recover the Government money as compensation.

18. The learned counsel for respondent submits that as per the four corners of legal umbrella, what the Government will get is only the cheque amounts, however, as per Section 138 of NI Act, the default amount can be twice the cheque amount. The Agreement in question is of the year 2008 and till date the respondent has not received any money.

19. The learned counsel for the respondent has pointed out that as per the argument of learned senior counsel for the revisionists the default sentence runs consecutively and not concurrently which comes to 9 years. The learned counsel for respondent relies upon the case of M/s U Turn Housing Pvt. Ltd. & Anr. v. State of (GNCT) of Delhi & Anr., Crl. M.C. 820/2016, date of decision August 19th, 2016.

20. The learned counsel for respondent has further submitted that the awarded sentence in default of 9 years need not be interfered as they are required to run consecutively. The learned counsel for the respondent has further relied upon the case of V.K. Bansal v. State of Haryana and Ors. etc. etc. reported in (2013) 7 SCC 211 para 17 to show that this Court has no power to order concurrent running of a sentence with respect to default sentence under section 353(3) of Cr.P.C.

21. In the instant revision petitions the whole dispute hinges around that, what would be the substantive sentence and default sentence in the aforesaid revision petitions?

22. The relevant section of the Code of Criminal Procedure, 1973, which deals with the substantive sentence is reproduced as under:

"219. Three offences of same kind within year may be charged together.

(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with,

and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law: Provided that, for the purposes of this section, an offence punishable under section 379 of the Indian Penal Code (45 of 1860) shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence."

23. In the aforesaid revision petitions the cheques in question were issued on 31.03.2010 by the revisionists to meet the outstanding liability amounting to Rs. 9,94,98,634/- qua against the respondent company which is a Government company. All the cheques issued were of Rs. 50 lakhs each. The said cheques on presentation by the respondent were dishonoured with a remark ''exceeds arrangements''. In C.C.No. 894/2011 the demand notice was issued on 29.06.2010 and the same was dishonoured vide return memo dated 12.06.2010 with a remark ''exceeds arrangements'' and in rest of the seventeen complaint cases, i.e., CC No. 909/2011, CC No. 899/2011, CC No. 903/2011, CC No. 910/2011, CC No. 911/2011, CC No. 906/2011, CC No. 907/2011, CC No. 898/2011, CC No. 905/2011, CC No. 904/2011, CC No. 157/2013, CC No. 902/2011, CC No. 912/2011, CC No. 901/2011, CC No. 900/2011, CC No. 908/2011 and CC No. 897/2011, the demand notices were issued on 26.04.2010 and the cheques were dishonoured on 31.03.2010 with remarks ''exceeds arrangements'' within a period of one year.

24. The issuance of legal notices by the respondent/Govt. company to the revisionists are not disputed between the parties. It is also not in dispute that the payment so demanded was made by the revisionists within the stipulated period or subsequent period till date which attracts conviction under Section 138 read with Section 141 of the Negotiable Instruments, Act, 1881.

25. However, all the aforesaid cheques issued by the revisionist to the respondent company were to meet their liability amounting to Rs. 9,94,98,634 which forms part of one single transaction giving rise to one cause of action and the same could not be said to be distinct offences committed in each of the complaint cases to attract the provisions of Section 138 read with Section 141 of the Negotiable Instruments, Act having different cause of action. Therefore, the substantive sentence awarded to the revisionists could have been one year concurrently rather than independent/consecutive sentence in each complaint cases. The reliance could be placed on the judgements of the Apex Court in the cases of Mohd. Akhtar Hussain (supra) and V.K. Bansal (supra) and the relevant paras are reproduced as under:

"Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti v. Assistant Collector of

Customs (Prevention), Ahmedabad and Another reported in (1988) 4 SCC 183 10. The basic rule of thumb over the years has been the so called single transition rule for concurrent sentences. If a given transaction constitutes two offences under two enactments generally, it is wrong to have consecutive sentences. It is proper and legitimate to have concurrent sentences. But this rule has no application if the transaction relating to offences is not the same or the facts constituting the two offences are quite different.

V.K. Bansal v. State of Haryana and Ors. etc. etc. reported in (2013) 7 SCC 211

17. We make it clear that the direction regarding concurrent running of sentence shall be limited to the substantive sentence only. The sentence which the Appellant has been directed to undergo in default of payment of fine/ compensation shall not be affected by this direction. We do so because the provisions of Section 427 of the Code of Criminal Procedure do not, in our opinion, permit a direction for the concurrent running of the substantive sentences with sentences awarded in default of payment of fine/compensation."

The Court below went wrong while awarding substantive sentence to run consecutively rather than to award the sentence concurrently as the cheques issued by the revisionists were to meet their outstanding liability of Rs. 9.94,98.634/- qua against the respondent/Govt. company on 31.03.2010 which forms one single transaction.

26. So far the default sentences are concerned Section 30 of The Code of Criminal Procedure, 1973 is reproduced as under:

" 30. Sentence of imprisonment in default of fine.

(1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term-

(a) is not in excess of the powers of the Magistrate under section 29;

(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.

It is an admitted fact emerging on the record that the revisionists were directed to pay a fine of Rs. 51 lakhs in each complaint cases as compensation to the respondent and in default of payment the revisionist no. 2, i.e., Mr. Satpal Jain, shall further undergo a simple imprisonment of six months for each complaint cases which exceeds one fourth of the term of imprisonment that the learned

Metropolitan Magistrate could have awarded. The substantive sentence awarded in the present cases is one year and the default sentence of one fourth comes to three months only in each complaint cases. However, the compensation amount so awarded could have said to be the cheque amount only because the cheques of Rs. 50 lakhs each were issued on 31.03.2010 and whereas the revisionists/ convicts were awarded the sentence on 30.05.2014.

27. Section 138 of the Negotiable Instruments, Act 1881 is reproduce as under:

"138. Dishonour of cheque for insufficiency, etc., of funds in the account. -Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for [a term which may be extended to two years], or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless-

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, [within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.- For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability."

28. The Court below while awarding the sentence and fine as compensation under Section 357(3) of the Cr.P.C. could have increased the fine amount twice the cheque amount under Section 138 of the N.I. Act, whereas the learned Metropolitan Magistrate has awarded the compensation of only Rs. 51 lakhs in each complaint cases with the intent to recover the Government money from the revisionists and nothing biased/adverse qua against the revisionist exist in the factual parametric of the present revision petitions. The Apex Court has also held that the Court can impose sentence in default of payment of compensation awarded, reliance could be placed on the judgments Hari Singh v. Sukhbir Singh

and Others reported at (1988) 4 SCC 551 and Suganthi Suresh Kumar v. Jagdeeshan reported at 2002 2 SCC 420.

29. Section 427 of The Code of Criminal Procedure, 1973 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 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."

The aforesaid Section is a discretionary in nature and this court has already said so in the case of M/s U Turn Housing Pvt. Ltd. & Anr.(supra) and the Apex Court in the case of V.K. Bansal (supra) has made it clear that the concurrent running of the sentence should be limited only to substantive sentence and not qua against the default sentences.

30. As discussed above, the conviction of the revisionists in the eighteen complaint case under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881 is affirmed. So far the order on sentences passed by the learned Metropolitan Magistrate dated 30.05.2014 and the same upheld by the learned Additional Sessions Judge dated 03.11.2015 are concerned they are modified to the extent that the revisionist, i.e., Mr. Satpal Jain, shall undergo simple imprisonment for one year and the revisionists/convicts, i.e., Shree Sainath Wires Pvt. Ltd. and Mr. Satpal Jain, shall be liable to pay a fine as compensation under Section 357(3) of Cr.P.C. of Rs. 51 lakhs in each complaint cases to the respondent/PEC Ltd. within thirty days. In case of default of payment of compensation the revisionist, Mr. Satpal Jain, shall further undergo simple imprisonment for three months in each complaint cases.

31. The respondent is directed to take action in civil side too besides its criminal liability qua against the revisionists subject to the limitation as the money involved is the tax payers/government money subject to the limitation and if the action is not taken till date within limitation then necessary departmental action be taken against the officials responsible for not taking such action within a statutory period of limitation and necessary compliance be sent to the Court

below.

32. Consequently, the present revision petitions are disposed off accordingly. Let one copy of this judgment be placed on the files of the remaining seventeen revision petitions, i.e., Crl Rev.P. 141/2016, Crl Rev.P. 142/2016, Crl Rev.P. 143/2016, Crl Rev.P. 144/2016, Crl Rev.P. 145/2016, Crl Rev.P. 146/2016, Crl Rev.P. 147/2016, Crl Rev.P. 148/2016, Crl Rev.P. 149/2016, Crl Rev.P. 150/2016, Crl Rev.P. 151/2016, Crl Rev.P. 152/2016, Crl Rev.P. 153/2016, Crl Rev.P. 154/2016, Crl Rev.P. 155/2016, Crl Rev.P. 157/2016 and Crl Rev.P. 158/2016. No order as to costs.

33. Let one copy each of this judgment be sent to the concerned Court and be placed on the files of the aforesaid 18 complaint cases.

LCR file be sent back to the concerned Court. All the pending applications are disposed of.

