

(1987) 01 MP CK 0011

Madhya Pradesh High Court (Indore Bench)

Case No: Miscellaneous Cri. Case No. 806 of 1986

Babulal Ambaram and others

APPELLANT

Vs

State of M. P.

RESPONDENT

Date of Decision: Jan. 21, 1987

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 427(2), 482
- Penal Code, 1860 (IPC) - Section 304, 34, 64

Citation: (1987) MPLJ 480

Hon'ble Judges: K.L. Shrivastava, J

Bench: Single Bench

Advocate: D.S. Solanki, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.L. Shrivastava, J.

In Criminal Appeal No. 569/81 decided on 7-3-1984 the petitioners stand convicted by this Court u/s 304 part II/34 Indian Penal Code and sentenced to R.I. for five years and to pay a fine of Rs. 1000/- and in default to payment of fine to undergo R.I. for one year.

Ordinarily sentences imposed take effect in the order in which they are passed. By virtue of Section 64 Indian Penal Code imprisonment in default of payment of fine is sentence and that being so, any subsequent sentence of imprisonment would not begin until the expiry of the sentence of imprisonment in default. Sub-sections (11 and (2) of Section 427 of the Criminal Procedure Code 1973 provide for the substantive term of imprisonment passed in two different cases to run concurrently. In this connection the decision in Mahabir Beldar Vs. The State, is pertinent. Therein it has been pointed out that where the Court dealing with the subsequent case does

not pass an order that the sentence should run concurrently with the previous sentence, the law takes its course and the sentences are to run consecutively. There is nothing illegal about it and the High Court will not exercise its inherent powers to pass an order directing the sentences to run concurrently.

There is no provision in law enabling a Court to direct a sentence of imprisonment in default of payment of fine to run concurrently with sentence of imprisonment passed either at the same trial or at different trials.

For the foregoing reasons, there being no case for interference u/s 482 of the Criminal Procedure Code the application is dismissed.