(2013) 07 DEL CK 0471

Delhi High Court

Case No: Criminal Appeal 609 of 2013

Ravi Kumar		APPELLANT
	Vs	
State (Govt. of NCT of Delhi)		RESPONDENT

Date of Decision: July 4, 2013

Acts Referred:

- Arms Act, 1959 - Section 25
- Criminal Procedure Code, 1973 (CrPC) - Section 427
- Penal Code, 1860 (IPC) - Section 326

Hon'ble Judges: S.P. Garg, J

Bench: Single Bench

Advocate: Arundhati Kaju, for the Appellant; M.N. Dudeja, APP, for the Respondent

Final Decision: Dismissed

Judgement

S.P. Garg, J.

The appellant-Ravi Kumar has filed appeal to challenge correctness of the order dated 19.03.2013 of learned Additional Sessions Judge by which his prayer to order sentence in FIR Nos. 280/2010 and 05/2010, Police Station Kotwali to run concurrently was disallowed. I have heard the learned counsel for the appellant and have examined the record. It reveals that the appellant-Ravi Kumar was convicted in FIR No. 280/2010 for committing offence u/s 326 IPC PS Kotwali and sentenced to undergo RI for two years and six months with fine Rs. 2,000/-. He completed the substantive sentence on 26.01.2013. Again the appellant was convicted in FIR No. 05/2010 u/s 326 IPC PS Kotwali and sentenced to undergo RI for three years by an order dated 25.01.2012. Appellant''s counsel urged to modify the sentence order and to allow both the substantive sentences to run concurrently u/s 427 Cr.P.C. as the appellant is a poor person and has small family to take care of them.

2. Section 427 fixes the time from which a sentence passed on an offender who is already undergoing another sentence should run. The general rule is that a sentence commences to run from the time of its being passed. The power conferred on the Court u/s 427 to order concurrent sentence is discretionary. Where the Court does not specify whether the sentences awarded shall run concurrently or consecutively, presumption is that the Court intended that the sentences shall run one after the other. I find no substance/merit in the appellant''s plea to order both the substantive sentences to run concurrently. In FIR No. 280/2010, the appellant with his associates caused ''dangerous'' injuries with sharp weapon i.e. knife on the victim. In the FIR No. 05/2010, the appellant inflicted ''grievous'' injuries with knife on the abdomen of the victim. Nominal roll reveals that the appellant is also involved in case FIR No. 1/2011 u/s 25 Arms Act PS Kotwali. The two offences are not akin or intimately connected. These were committed on different dates in distinct and different circumstances/occurrences. There were two separate trials. Taking into consideration the injuries inflicted by the appellant to distinct victims on different dates without any motive/provocation, he deserves no leniency to order concurrent sentences in both the FIRs. The Trial Court took lenient view and awarded RI for three years only. The appeal lacks merits and is dismissed in limine. Copy of the order be sent to Trial Court.