

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08<sup>TH</sup> DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

CRIMINAL PETITION No.3359 OF 2022

C/W

CRIMINAL PETITION No.2096 OF 2021

**IN CRIMINAL PETITION No.3359 OF 2022**

**BETWEEN:**

RAMACHANDRA REDDY  
S/O. CHINNAMADDI REDDY,  
AGED ABOUT 46 YEARS,  
R/AT MACHANAHALLI,  
CHELUR HOBLI,  
BAGEPALLI TALUK,  
PIN CODE – 561 207.

... PETITIONER

(BY SRI NANJUNDE GOWDA, ADVOCATE)

**AND:**

STATE OF KARNATAKA  
BY CHINTHAMANI TOWN POLICE,  
CHIKKABALLAPURA DISTRICT,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
AT BENGALURU – 560 001.

... RESPONDENT

(BY SMT.K.P.YASHODHA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 R/W 427 OF CR.P.C., PRAYING TO CONSIDER AND DIRECT THE ORDER OF CONVICTION DATED 25.11.2010 IN S.C.NO.02/2007 PASSED BY THE HONOURABLE DISTRICT AND SESSIONS JUDGE, CHIKKABALLAPURA, TO RUN CONCURRENTLY FOR THE OFFENCE P/U/S 302, 394 OF IPC.

**IN CRIMINAL PETITION No.2096 OF 2021**

**BETWEEN:**

K.R.SUKUMAR  
S/O RADHAKRISHNAIAH SHETTY  
AGED ABOUT 36 YEAR  
R/AT DODDAPET  
CHINTHAMANI TOWN  
CHIKKABALLAPURA DISTRICT - 562 101.

... PETITIONER

(BY SRI NANJUNDA GOWDA, ADVOCATE)

**AND:**

STATE OF KARNATAKA  
BY CHINTHAMANI TOWN POLICE  
CHIKKABALLAPURA DISTRICT  
R/BY PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
AT BENGALURU - 560 001.

... RESPONDENT

(BY SMT.K.P.YASHODHA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 R/W 427 OF CR.P.C., PRAYING TO CONSIDER AND DIRECT THE ORDER OF CONVICTION DATED 25.11.2010 IN S.C.NO.2/2007 PASSED BY

THE HONBLE DISTRICT AND SESSIONS JUDGE, CHIKKABALLAPURA TO RUN CONCURRENTLY FOR THE OFFENCE P/U/S 302,394 OF IPC.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.01.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

**ORDER**

The petitioners in these petitions are before this Court seeking a prayer that the order of conviction dated 25.11.2010, passed in S.C.No.2/2007, by the District and Sessions Judge, Chikkaballapura, for different offences to run concurrently. Petitioners are convicted - accused Nos.1 and 2.

2. Heard Sri M.R.Nanjunda Gowda, learned counsel for the petitioners and Smt.K.P.Yashodha, learned High Court Government Pleader appearing for the respondent in both the cases.

3. Brief facts of the case that leads the petitioners to this Court in the subject petitions as borne out from the pleadings are as follows:

On 03.09.2002, as crime comes to be registered against accused Nos.1 to 3 for the offences punishable under Sections 302,

201, 120B, r/w. 34 of the IPC. The concerned Court took cognizance of the offences in C.C.No.442/2002 and after the case being committed to the Court of Sessions, the Sessions Judge registers a case in S.C.No.45/2003. The Sessions Court in terms of its order dated 09.12.2010, convicts accused Nos.1 and 2, the petitioners herein and sentenced to undergo life imprisonment and pay fine of Rs.50,000/- for offence punishable under Section 302 of the IPC and in default of payment of fine, they shall undergo further rigorous imprisonment for a period of six months. They were also convicted and sentenced to undergo rigorous imprisonment for a period of ten years and payment of Rs.50,000/- each and in default to pay fine, to undergo further rigorous imprisonment for a period of six months for the offence punishable under Section 394 of the IPC. The petitioners are now knocking at the doors of this Court contending that they are in prison since 22.09.2002, which is more than twenty years as of now and are entitled to seek remission or premature release in terms of the Rules and guidelines. What is coming in the way is the absence of a direction by the concerned Court that the sentences should run concurrently. Therefore, notwithstanding the petitioners completing twenty years in prison

are not entitled to seek remission on the ground that the sentence for offence punishable under Section 394 of the IPC, is in operation.

4. I have given my anxious consideration to the submission made by the learned counsel for the petitioners and the learned Additional Government Advocate representing the respondent.

5. The issue in the *lis* is in the absence of a direction in the order of sentence, not indicating whether the offences would run concurrently or separately and whether the relief could be granted to the petitioners.

6. Before considering the issue *qua* the facts of the case, I deem it appropriate to notice the line of law as is laid down by the constitutional Courts in the following cases:

i. ***RAMESH CHILWAL @ BAMBAYYA VS. STATE OF UTTARAKHAND***<sup>1</sup>

***"3. The learned counsel appearing for the appellant has brought to our notice that the trial Judge has convicted and sentenced the appellant in the following order:***

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<sup>1</sup> (2012) 11 SCC 629

(i) *The accused Ramesh Chilwal alias Bambayya is convicted in Case Crime No. 580 of 2004, Special Sessions Triable Case No. 28 of 2005 under Section 302 IPC and sentence of the rigorous imprisonment for life and a fine of Rs 1,00,000 (Rupees one lakh). In default for the payment of fine, he shall also serve a simple imprisonment for a period of six months. Out of this rupees one lakh, Rs 50,000 (Rupees fifty thousand) is awarded as compensation to the family of the deceased.*

(ii) *The accused Ramesh Chilwal alias Bambayya is convicted in Case Crime No. 580 of 2004, Special Sessions Triable Case No. 28 of 2005 under Sections 2/3[3(1)], Gangsters Act and sentence for the rigorous imprisonment of 10 (ten) years and a fine of Rs 50,000 (Rupees fifty thousand). In default for the payment of fine, he shall also serve a simple imprisonment for a period of four months. Out of this Rs 50,000 (Rupees fifty thousand), rupees twenty-five thousand is awarded as compensation to the family of the deceased.*

(iii) *Accused Ramesh Chilwal alias Bambayya is convicted in Case Crime No. 737 of 2004, Sessions Triable Case No. 118 of 2005 under Section 27 of the Arms Act and sentence for the rigorous imprisonment of 7 (seven) years and a fine of Rs 25,000 (Rupees twenty-five thousand). In default for the payment of fine, he shall also serve a simple imprisonment for a period of four months. Out of this Rs 25,000, half of the amount is awarded as compensation to the family of the deceased."*

*By the impugned order [Ramesh Chilwal v. State of Uttarakhand, Criminal Appeal No. 15 of 2006, order dated 11-11-2011 (Utt)] , the said conviction and sentences were confirmed by the High Court.*

*4. Since this Court issued notice only to clarify the sentence awarded by the trial Judge, there is no need to go into all the factual details. We are not inclined to modify the sentence. However, considering the fact that the trial Judge has awarded life sentence for an offence under Section 302, in view of Section 31 of the Code of Criminal Procedure, 1973, we make it clear that all the sentences imposed under IPC, the Gangsters Act and the Arms Act are to run concurrently.*

5. While confirming the conviction, we clarify that all the sentences are to run concurrently. To this extent, the judgment of the trial court as affirmed by the High Court is modified. The appeals are disposed of accordingly."

ii. **GAGAN KUMAR VS. STATE OF PUNJAB**<sup>2</sup>

"7. So, the short question, which arises for consideration in this appeal, is whether the courts below were justified in convicting the appellant.

8. Heard the learned counsel for the parties.

9. The learned counsel for the appellant (accused) while assailing the legality and correctness of the impugned order argued only one point.

10. The only submission made by the learned counsel for the appellant was that the Judicial Magistrate while passing the order of sentence erred in not mentioning therein as to whether the two punishments awarded to the appellant under Section 279 and Section 304-A IPC would run concurrently or consecutively.

11. The learned counsel pointed out that under Section 31 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), it is mandatory for the Magistrate to specify as to whether the sentences awarded to the accused would run concurrently or consecutively when the accused is convicted for more than one offence in a trial.

12. The learned counsel urged that since in this case the appellant was awarded two years' rigorous imprisonment with a fine amount of Rs 1000 and in default of payment of fine amount, to further undergo simple imprisonment for one month under Section 304-A IPC and six months' rigorous imprisonment with a fine amount of Rs 1000 and in default of

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<sup>2</sup> (2019) 5 SCC 154

*payment of fine amount, to further undergo simple imprisonment for 15 days under Section 279 IPC, these two punishments should have been directed to run concurrently as provided under Section 31(1) of the Code.*

*13. The learned counsel for the State, however, could not find fault in the legal position, which governs the issue, and, in our view, rightly.*

*14. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and modify the order of the Magistrate dated 12-5-2017, as indicated under.*

*15. In our considered opinion, it was necessary for the Magistrate to have ensured compliance with Section 31 of the Code when she convicted and sentenced the appellant for two offences in a trial and inflicted two punishments for each offence, namely, Section 279 and Section 304-A IPC.*

*16. In such a situation, it was necessary for the Magistrate to have specified in the order by taking recourse to Section 31 of the Code as to whether the punishment of sentence of imprisonment so awarded by her for each offence would run concurrently or consecutively.*

*17. Indeed, it being a legal requirement contemplated under Section 31 of the Code, the Magistrate erred in not ensuring its compliance while inflicting the two punishments to the appellant.*

*18. If the Magistrate failed in her duty, the Additional Sessions Judge and the High Court should have noticed this error committed by the Magistrate and accordingly should have corrected it. It was, however, not done and hence interference is called for to that extent.*

*19. As mentioned above, the appellant was convicted and accordingly punished with a sentence to undergo two years' rigorous imprisonment with a fine amount of Rs 1000 and in default of payment of fine amount to further undergo one month's simple imprisonment under Section 304-A and 6*



*months' rigorous imprisonment with a fine amount of Rs 1000 and in default of payment of fine amount to further undergo 15 days' simple imprisonment under Section 279 IPC.*

*20. In our view, having regard to the facts and circumstances of the case and keeping in view the nature of controversy involved in the case, both the aforementioned sentences awarded by the Magistrate to the appellant would run "concurrently".*

ii. **MUTHURAMALINGAM AND OTHERS VS. STATE,  
REPRESENTED BY INSPECTOR OF POLICE<sup>3</sup>**

*"6. We have heard the learned counsel for the parties at considerable length. Section 31 CrPC which deals with sentences in cases of conviction of several offences at one trial runs as under:*

*"31. Sentence in cases of conviction of several offences at one trial.--(1) When a person is convicted at one trial of two or more offences, the court may, subject to the provisions of Section 71 of the Penal Code, 1860, sentence him for such offences, to the several punishments prescribed therefor which such court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court may direct, unless the court directs that such punishments shall run concurrently.*

*(2) In the case of consecutive sentences, it shall not be necessary for the court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher court:*

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<sup>3</sup> (2016) 8 SCC 213

*Provided that—*

*(a) in no case shall such person be sentenced to imprisonment for longer period than fourteen years;*

*(b) the aggregate punishment shall not exceed twice the amount of punishment which the court is competent to inflict for a single offence.*

*(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.”*

*7. A careful reading of the above would show that the provision is attracted only in cases where two essentials are satisfied viz. (1) a person is convicted at one trial, and (2) the trial is for two or more offences. It is only when both these conditions are satisfied that the court can sentence the offender to several punishments prescribed for the offences committed by him provided the court is otherwise competent to impose such punishments. What is significant is that such punishments as the court may decide to award for several offences committed by the convict when comprising imprisonment shall commence one after the expiration of the other in such order as the court may direct unless the court in its discretion orders that such punishment shall run concurrently. Sub-section (2) of Section 31 on a plain reading makes it unnecessary for the court to send the offender for trial before a higher court only because the aggregate punishment for several offences happens to be in excess of the punishment which such court is competent to award provided always that in no case can the person so sentenced be imprisoned for a period longer than 14 years and the aggregate punishment does not exceed twice the punishment which the court is competent to inflict for a single offence.*

*8. Interpreting Section 31(1), a three-Judge Bench of this Court in O.M. Cherian case [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] declared that if two life sentences are imposed on a convict the court must*

necessarily direct those sentences to run concurrently. The Court said: (SCC pp. 509-10, para 13)

**"13. Section 31(1) CrPC enjoins a further direction by the court to specify the order in which one particular sentence shall commence after the expiration of the other. Difficulties arise when the courts impose sentence of imprisonment for life and also sentences of imprisonment for fixed term. In such cases, if the court does not direct that the sentences shall run concurrently, then the sentences will run consecutively by operation of Section 31(1) CrPC. There is no question of the convict first undergoing the sentence of imprisonment for life and thereafter undergoing the rest of the sentences of imprisonment for fixed term and any such direction would be unworkable. Since sentence of imprisonment for life means jail till the end of normal life of the convict, the sentence of imprisonment of fixed term has to necessarily run concurrently with life imprisonment. In such case, it will be in order if the Sessions Judges exercise their discretion in issuing direction for concurrent running of sentences. Likewise if two life sentences are imposed on the convict, necessarily, the court has to direct those sentences to run concurrently."**

**9. To the same effect is the decision of a two-Judge Bench of this Court in Duryodhan Rout case [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] in which this Court took the view that since life imprisonment means imprisonment of full span of life there was no question of awarding consecutive sentences in case of conviction for several offences at one trial. Relying upon the proviso to sub-section (2) of Section 31, this Court held that where a person is convicted for several offences including one for which life sentences can be awarded the proviso to Section 31(2) shall forbid running of such sentences consecutively.**

**10. It would appear from the above two pronouncements that the logic behind life sentences not running consecutively lies in the fact that imprisonment for life implies imprisonment till the end of the normal life of the convict. If that proposition is sound, the logic underlying the ratio of the decisions of this Court in O.M. Cherian [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] and Duryodhan Rout [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] cases would also be equally sound. What then needs to be examined is whether imprisonment for life does indeed imply imprisonment till the end of the normal life of the convict as observed in O.M. Cherian [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] and Duryodhan Rout [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] cases. That question, in our considered opinion, is no longer res integra, the same having been examined and answered in the affirmative by a long line of decisions handed down by this Court. We may gainfully refer to some of those decisions at this stage.**

11. In *Gopal Vinayak Godse v. State of Maharashtra* [*Gopal Vinayak Godse v. State of Maharashtra*, (1961) 3 SCR 440 : AIR 1961 SC 600 : (1961) 1 Cri LJ 736], a Constitution Bench of this Court held that a prisoner sentenced to life imprisonment was bound to serve the remainder of his life in prison unless the sentence is commuted or remitted by the appropriate authority. Such a sentence could not be equated with a fixed term.

12. In *Dalbir Singh v. State of Punjab* [*Dalbir Singh v. State of Punjab*, (1979) 3 SCC 745 : 1979 SCC (Cri) 848], a three-Judge Bench of this Court observed: (SCC p. 753, para 14)

"14. ... life imprisonment which strictly means imprisonment for the whole of the man's life, but in practice amounts to incarceration for a period between 10 and 14 years which may, at the option of the convicting court, be subject to the condition that the sentence of imprisonment shall last as long as life lasts where there

*are exceptional indications of murderous recidivism and the community cannot run the risk of the convict being at large."*

13. Again in *State of Punjab v. Joginder Singh* [*State of Punjab v. Joginder Singh*, (1990) 2 SCC 661 : 1990 SCC (Cri) 419] this Court held that if the sentence is "imprisonment for life" the convict has to pass the remainder of his life under imprisonment unless of course he is granted remission by a competent authority in exercise of the powers vested in it under Sections 432 and 433 CrPC.

14. In *Maru Ram v. Union of India* [*Maru Ram v. Union of India*, (1981) 1 SCC 107 : 1981 SCC (Cri) 112] also this Court following *Godse* case [*Gopal Vinayak Godse v. State of Maharashtra*, (1961) 3 SCR 440 : AIR 1961 SC 600 : (1961) 1 Cri LJ 736] held that imprisonment for life lasts until last breath of the prisoner and whatever the length of remissions earned the prisoner could claim release only if the remaining sentence is remitted by the Government. The Court observed: (*Maru Ram* case [*Maru Ram v. Union of India*, (1981) 1 SCC 107 : 1981 SCC (Cri) 112] , SCC p. 154, para 72)

"72. ... (6) We follow *Godse* case [*Gopal Vinayak Godse v. State of Maharashtra*, (1961) 3 SCR 440 : AIR 1961 SC 600 : (1961) 1 Cri LJ 736] to hold that imprisonment for life lasts until the last breath, and whatever the length of remission earned the prisoner can claim release only if the remaining sentence is remitted by the Government."

15. In *Ashok Kumar v. Union of India* [*Ashok Kumar v. Union of India*, (1991) 3 SCC 498 : 1991 SCC (Cri) 845] , this Court had yet another occasion to examine the true meaning and purport of expression "imprisonment for life" and declared that when read in the light of Section 45 IPC the said expression would ordinarily mean the full and complete span of life. The following passage in this regard is apposite: (SCC p. 513, para 12)

"12. ... The expression "imprisonment for life" must be read in the context of Section 45 IPC. Under that provision the word "life" denotes the life of a human being

*unless the contrary appears from the context. We have seen that the punishments are set out in Section 53, imprisonment for life being one of them. Read in the light of Section 45 it would ordinarily mean imprisonment for the full or complete span of life.” in Laxman Naskar v. Union of India [Laxman Naskar v. Union of India, (2000) 2 SCC 595 : 2000 SCC (Cri) 509] , wherein this Court held that life sentence is nothing less than lifelong imprisonment although by earning remission, the life convict could pray for pre-mature release before completing 20 years of imprisonment including remissions earned.*

*16. To the same effect is the decision of this Court in the case of Laxman Naskar vs. Union of India, (2000) 2 SCC 595 where this Court held that life sentence is nothing less than lifelong imprisonment although by earning remission, the life convict could pray for pre-mature release before completing 20 years of imprisonment including remissions earned.*

*17. Reference may also be made to the decisions of this Court in Subash Chander v. Krishan Lal [Subash Chander v. Krishan Lal, (2001) 4 SCC 458 : 2001 SCC (Cri) 735] , Shri Bhagwan v. State of Rajasthan [Shri Bhagwan v. State of Rajasthan, (2001) 6 SCC 296 : 2001 SCC (Cri) 1095] and Swamy Shraddananda (2) v. State of Karnataka [Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] , which too reiterate the legal position settled by the earlier mentioned decisions of this Court. A recent Constitution Bench decision of this Court in Union of India v. Sriharan [Union of India v. Sriharan, (2016) 7 SCC 1] , also had another occasion to review the case law on the subject. Relying upon the decisions of this Court in Sambha Ji Krishan Ji [Sambha Ji Krishan Ji v. State of Maharashtra, (1974) 1 SCC 196 : 1976 SCC (Cri) 102] , Ratan Singh [State of M.P. v. Ratan Singh, (1976) 3 SCC 470 : 1976 SCC (Cri) 428] , Maru Ram [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112] and Ranjit Singh [Ranjit Singh v. UT of Chandigarh, (1984) 1 SCC 31 : 1984 SCC (Cri) 27] cases this Court observed:*

*"It is quite apparent that this Court by stating as above has affirmed the legal position that the life imprisonment only means the entirety of the life unless it is curtailed by remissions validly granted under the Code of Criminal Procedure by the appropriate Government or under Articles 72 and 161 of the Constitution by the Executive Head viz. the President or the Governor of the State, respectively."*

**18. The legal position is, thus, fairly well settled that imprisonment for life is a sentence for the remainder of the life of the offender unless of course the remaining sentence is commuted or remitted by the competent authority. That being so, the provisions of Section 31 under CrPC must be so interpreted as to be consistent with the basic tenet that a life sentence requires the prisoner to spend the rest of his life in prison. Any direction that requires the offender to undergo imprisonment for life twice over would be anomalous and irrational for it will disregard the fact that humans like all other living beings have but one life to live. So understood Section 31(1) would permit consecutive running of sentences only if such sentences do not happen to be life sentences. That is, in our opinion, the only way one can avoid an obvious impossibility of a prisoner serving two consecutive life sentences.**

19. A somewhat similar question fell for consideration before a three-Judge Bench of this Court in *Ranjit Singh v. UT of Chandigarh* [*Ranjit Singh v. UT of Chandigarh*, (1991) 4 SCC 304 : 1991 SCC (Cri) 965]. The prisoner was in that case convicted for murder and sentenced to undergo life imprisonment. He was released on parole while undergoing the life sentence when he committed a second offence of murder for which also he was convicted and sentenced to undergo imprisonment for life. In an appeal filed against the second conviction and sentence, this Court by an order dated 30-9-1983 [*Ranjit Singh v. UT of Chandigarh*, (1984) 1 SCC 31 : 1984 SCC (Cri) 27] directed that the imprisonment for life awarded to him should not run concurrently with his earlier sentence of life imprisonment. The Court directed that in the event of remission or commutation of the earlier sentence

awarded to the prisoner, the second imprisonment for life awarded for the second murder committed by him shall commence. Aggrieved by the said direction which made the second life sentence awarded to him consecutive, the prisoner filed a writ petition under Article 32 of the Constitution primarily on the ground that this Court's order dated 30-9-1983 [Ranjit Singh v. UT of Chandigarh, (1984) 1 SCC 31 : 1984 SCC (Cri) 27] was contrary to Section 427(2) CrPC, according to which any person already undergoing sentence of imprisonment for life if sentenced to undergo imprisonment for life, the subsequent sentence so awarded to him shall run concurrently with such previous sentence.

20. Relying upon Godse [Gopal Vinayak Godse v. State of Maharashtra, (1961) 3 SCR 440 : AIR 1961 SC 600 : (1961) 1 Cri LJ 736] and Maru Ram [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112] cases, this Court held in Ranjit Singh case [Ranjit Singh v. UT of Chandigarh, (1991) 4 SCC 304 : 1991 SCC (Cri) 965] that imprisonment for life is a sentence for remainder of the life of the offender. There was, therefore, no question of a subsequent sentence of imprisonment for life running consecutively as per the general rule contained in sub-section (1) of Section 427. This Court observed: (SCC pp. 310-11, para 8)

"8. ... As rightly contended by Shri Garg, and not disputed by Shri Lalit, the earlier sentence of imprisonment for life being understood to mean as a sentence to serve the remainder of life in prison unless commuted or remitted by the appropriate authority and a person having only one life span, the sentence on a subsequent conviction of imprisonment for a term or imprisonment for life can only be superimposed to the earlier life sentence and certainly not added to it since extending the life span of the offender or for that matter anyone is beyond human might. It is this obvious situation which is stated in sub-section (2) of Section 427 since the general rule enunciated in sub-section (1) thereof is that without the court's direction the subsequent sentence will not run concurrently but consecutively. The only situation in which no direction of the court is needed to make the subsequent sentence run concurrently with the previous



*sentence is provided for in sub-section (2) which has been enacted to avoid any possible controversy based on sub-section (1) if there be no express direction of the court to that effect. Sub-section (2) is in the nature of an exception to the general rule enacted in sub-section (1) of Section 427 that a sentence on subsequent conviction commences on expiry of the first sentence unless the court directs it to run concurrently. The meaning and purpose of sub-sections (1) and (2) of Section 427 and the object of enacting sub-section (2) is, therefore, clear."*

*21. Having said that, this Court in Ranjit Singh case [Ranjit Singh v. UT of Chandigarh, (1991) 4 SCC 304 : 1991 SCC (Cri) 965] declared that once the subsequent imprisonment for life awarded to the prisoner is superimposed over the earlier life sentence, the grant of any remission or commutation qua the earlier sentence of life imprisonment will not ipso facto benefit the prisoner qua the subsequent sentence of life imprisonment. Such subsequent sentence would continue and shall remain unaffected by the remission or commutation of the earlier sentence. This Court said: (SCC p. 311, para 9)*

*"9. ... In other words, the operation of the superimposed subsequent sentence of life imprisonment shall not be wiped out merely because in respect of the corresponding earlier sentence of life imprisonment any remission or commutation has been granted by the appropriate authority. The consequence is that the petitioner would not get any practical benefit of any remission or commutation in respect of his earlier sentence because of the superimposed subsequent life sentence unless the same corresponding benefit in respect of the subsequent sentence is also granted to the petitioner. It is in this manner that the direction is given for the two sentences of life imprisonment not to run concurrently."*

*22. Ranjit Singh case [Ranjit Singh v. UT of Chandigarh, (1991) 4 SCC 304 : 1991 SCC (Cri) 965] was no doubt dealing with a fact situation different from the one with which we are dealing in the present case, inasmuch as Ranjit Singh case [Ranjit Singh v. UT of Chandigarh, (1991) 4 SCC 304 : 1991 SCC (Cri)*

965] was covered by Section 427 CrPC as the prisoner in that case was already undergoing a sentence of life imprisonment when he committed a second offence of murder that led to his conviction and award of a second sentence of life imprisonment. In the cases at hand, the appellants were not convicts undergoing life sentence at the time of commission of multiple murders by them. Their cases, therefore, fall more appropriately under Section 31 of the Code which deals with conviction of several offences at one trial. Section 31(1) deals with and empowers the court to award, subject to the provisions of Section 71 IPC, several punishments prescribed for such offences and mandates that such punishments when consisting of imprisonment shall commence one after the expiration of the other in such order as the court may direct unless the court directs such punishments shall run concurrently. The power to award suitable sentences for several offences committed by the offenders is not and cannot be disputed. The order in which such sentences shall run can also be stipulated by the court awarding such sentences. So also the court is competent in its discretion to direct that punishment awarded shall run concurrently not consecutively. The question, however, is whether the provision admits of more than one life sentences running consecutively. That question can be answered on a logical basis only if one accepts the truism that humans have one life and the sentence of life imprisonment once awarded would require the prisoner to spend the remainder of his life in jail unless the sentence is commuted or remitted by the competent authority. That, in our opinion, happens to be the logic behind Section 427(2) CrPC mandating that if a prisoner already undergoing life sentence is sentenced to another imprisonment for life for a subsequent offence committed by him, the two sentences so awarded shall run concurrently and not consecutively. Section 427(2) in that way carves out an exception to the general rule recognised in Section 427(1) that sentences awarded upon conviction for a subsequent offence shall run consecutively.

23. Parliament, it manifests from the provisions of Section 427(2) CrPC, was fully cognizant of the anomaly that would arise if a prisoner condemned to undergo life imprisonment is directed to do so twice over. It has, therefore, carved out an exception to the general rule to clearly recognise that in the case of life sentences for two distinct offences separately tried

and held proved the sentences cannot be directed to run consecutively. The provisions of Section 427(2) CrPC apart, in *Ranjit Singh* case [*Ranjit Singh v. UT of Chandigarh*, (1991) 4 SCC 304 : 1991 SCC (Cri) 965], this Court has in terms held that since life sentence implies imprisonment for the remainder of the life of the convict, consecutive life sentences cannot be awarded as humans have only one life. That logic, in our view, must extend to Section 31 CrPC also no matter Section 31 does not in terms make a provision analagous to Section 427(2) of the Code. The provision must, in our opinion, be so interpreted as to prevent any anomaly or irrationality. So interpreted Section 31(1) CrPC must mean that sentences awarded by the court for several offences committed by the prisoner shall run consecutively (unless the court directs otherwise) except where such sentences include imprisonment for life which can and must run concurrently. We are also inclined to hold that if more than one life sentences are awarded to the prisoner, the same would get superimposed over each other. This will imply that in case the prisoner is granted the benefit of any remission or commutation qua one such sentence, the benefit of such remission would not ipso facto extend to the other.

24. We may now turn to the conflict noticed in the reference order between the decisions of this Court in *Cherian* [*O.M. Cherian v. State of Kerala*, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] and *Duryodhan* [*Duryodhan Rout v. State of Orissa*, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] cases on the one hand and *Kamalanantha* [*Kamalanantha v. State of T.N.*, (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] and *Sanaullah Khan* [*Sanaullah Khan v. State of Bihar*, (2013) 3 SCC 52 : (2013) 2 SCC (Cri) 34] cases on the other.

25. In *O.M. Cherian* case [*O.M. Cherian v. State of Kerala*, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] the prisoner was convicted and sentenced to imprisonment for the offences punishable under Sections 498-A and 306 IPC. The courts below had in that case awarded to the convicts imprisonment for two years under Section 498-A IPC and seven years under Section 306 IPC and directed the same to run consecutively. Aggrieved by the said direction, the prisoners appealed to this Court to contend that the sentences awarded to them ought to

run concurrently and not consecutively. The appeal was referred [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501, 506-507 (para 5)] to a larger Bench of three Judges of this Court in the light of the decision in Mohd. Akhtar Hussain v. Collector of Customs [Mohd. Akhtar Hussain v. Collector of Customs, (1988) 4 SCC 183 : 1988 SCC (Cri) 921]. Before the larger Bench, the prisoners relied upon Mohd. Akhtar Hussain case [Mohd. Akhtar Hussain v. Collector of Customs, (1988) 4 SCC 183 : 1988 SCC (Cri) 921] and Manoj v. State of Haryana [Manoj v. State of Haryana, (2014) 2 SCC 153 : (2014) 1 SCC (Cri) 763] to contend that since the prisoners were found guilty of more than two offences committed in the course of one incident, such sentences ought to run concurrently. This Court upon a review of the case law on the subject held that Section 31 CrPC vested the court with the power to order in its discretion that the sentences awarded shall run concurrently in case of conviction of two or more offences. This Court declared that it was difficult to lay down a straightjacket rule for the exercise of such discretion by the courts. Whether a sentence should run concurrently or consecutively would depend upon the nature of the offence and the facts and circumstances of the case. All that could be said was that the discretion has to be exercised along judicial lines and not mechanically. Having said that, the Court observed that if two life sentences are imposed on a convict the court has to direct the same to run concurrently. That is because sentence of imprisonment for life means imprisonment till the normal life of a convict.

**26. As noticed above, Cherian case [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] did not involve awarding of two or more life sentences to the prisoner. It was a case of two term sentences being awarded for two different offences committed in the course of the same transaction and tried together at one trial. Even so, this Court held that life sentences cannot be made to run consecutively plainly because a single life sentence ensures that the remainder of the life of the prisoner is spent by him in jail. Such being the case, the question of a second such sentence being undergone consecutively did not arise.**

**27. In Duryodhan Rout case [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] the prisoner was convicted for the offences punishable under Sections 302, 376(2)(f) and 201 IPC and sentenced to death for the offence of murder and rigorous imprisonment for the offence punishable under Section 376(2)(f). Imprisonment for a period of one year was additionally awarded under Section 201 IPC with a direction that the sentences would run consecutively. In appeal, the High Court altered [State v. Duryodhan Rout, 2008 SCC OnLine Ori 321 : 2008 Cri LJ 2876] the sentence of death to imprisonment for life while leaving the remaining sentences untouched. The petitioner then approached this Court to argue that the sentences ought to run concurrently and not consecutively as directed by the courts below. Relying upon the decision of this Court in Gopal Vinayak case [Gopal Vinayak Godse v. State of Maharashtra, (1961) 3 SCR 440 : AIR 1961 SC 600 : (1961) 1 Cri LJ 736] and several other subsequent decisions on the subject this Court held that the sentence of imprisonment for life means imprisonment for the remainder of the life of the prisoner. The Court further held that Section 31 CrPC would not permit consecutive running of life sentence and the term sentence since the aggregate punishment of the petitioner would go beyond the outer limit of 14 years stipulated in the proviso to Section 31(2) CrPC. The Court observed: (Duryodhan Rout case [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] , SCC p. 794, para 29)**

"29. Section 31 CrPC relates to sentence in cases of conviction of several offences at one trial. The proviso to sub-section (2) of Section 31 lays down the embargo whether the aggregate punishment of prisoner is for a period of longer than 14 years. In view of the fact that life imprisonment means imprisonment for full and complete span of life, the question of consecutive sentences in case of conviction for several offences at one trial does not arise. Therefore, in case a person is sentenced of conviction of several offences, including one that of life imprisonment, the proviso to Section 31(2) shall come into play and no consecutive sentence can be imposed."

28. While we have no doubt about the correctness of the proposition that two life sentences cannot be directed to run consecutively, we do not think that the reason for saying so lies in the proviso to Section 31(2). Section 31(2) CrPC deals with situations where the court awarding consecutive sentences is not competent to award the aggregate of the punishment for the several offences for which the prisoner is being sentenced upon conviction. A careful reading of sub-section (2) would show that the same is concerned only with situations where the courts awarding the sentence and directing the same to run consecutively is not competent to award the aggregate of the punishment upon conviction for a single offence. The proviso further stipulates that in cases falling under sub-section (2), the sentence shall in no case go beyond 14 years and the aggregate punishment shall not exceed twice the amount of punishment which the court is competent to award. Now in cases tried by the Sessions Court, there is no limitation as to the court's power to award any punishment sanctioned by law including the capital punishment. Sub-section (2) will, therefore, have no application to a case tried by the Sessions Court nor would sub-section (2) step in to forbid a direction for consecutive running of sentences awardable by the Court of Session.

29. To the extent *Duryodhan Rout* case [*Duryodhan Rout v. State of Orissa*, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] relies upon proviso to sub-section (2) to support the conclusion that a direction for consecutive running of sentences is impermissible, it does not state the law correctly, even when the conclusion that life imprisonment means for the full span of one's life and consecutive life sentences cannot be awarded is otherwise sound and acceptable.

30. In *Kamalanantha v. State of T.N.* [*Kamalanantha v. State of T.N.*, (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] , the prisoners were convicted amongst others for the offences under Sections 376, 302, 354 IPC and sentenced to undergo rigorous imprisonment for life for the offences under Sections 376 and 302 IPC and various terms of imprisonment for other offences with the direction that the sentences awarded shall run consecutively. One of the issues that was raised in support of the appeal was that the courts below were not justified in

awarding consecutive life sentences. That contention was rejected by a two-Judge Bench of this Court in the following words: (SCC p. 229, para 76)

"76. The contention of Mr Jethmalani that the term "imprisonment" enjoined in Section 31 CrPC does not include imprisonment for life is unacceptable. The term "imprisonment" is not defined under the Code of Criminal Procedure. Section 31 of the Code falls under Chapter III of the Code which deals with power of courts. Section 28 of the Code empowers the High Court to pass any sentence authorised by law. Similarly, the Sessions Judge and Additional Sessions Judge may pass any sentence authorised by law, except the sentence of death which shall be subject to confirmation by the High Court. In our opinion the term "imprisonment" would include the sentence of imprisonment for life."

31. The above view runs contrary to the ratio of this Court's decision in Cherian case [O.M. Cherian v. State of Kerala, (2015) 2 SCC 501 : (2015) 2 SCC (Cri) 123] and Duryodhan Rout case [Duryodhan Rout v. State of Orissa, (2015) 2 SCC 783 : (2015) 2 SCC (Cri) 306] . That apart the view taken in Kamalanantha case [Kamaianantha v. State of T.N., (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] has not noticed the basic premise that a life sentence once awarded would imply that a prisoner shall spend the remainder of his life in prison. Once that happens there is no question of his undergoing another life sentence. To the extent the decision in Kamalanantha case [Kamaianantha v. State of T.N., (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] takes the view that the Court can for each offence award suitable punishment which may include multiple sentences of imprisonment for life for multiple offences punishable with death, there is and can be no quarrel with the stated proposition. The Court can and indeed ought to exercise its powers of awarding the sentence sanctioned by law which may include a life sentence. But if the decision in Kamalanantha [Kamalanantha v. State of T.N., (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] purports to hold that sentence of imprisonment for life can also be directed to run consecutively, the same does not appear to be sound for the reasons we have already indicated earlier. We need to remember that

*award of multiple sentences of imprisonment for life so that such sentences are superimposed over one another is entirely different from directing such sentence to run consecutively.*

*32. Sanaullah Khan v. State of Bihar [Sanaullah Khan v. State of Bihar, (2013) 3 SCC 52 : (2013) 2 SCC (Cri) 34] simply follows the view taken in Kamalanantha case [Kamalanantha v. State of T.N., (2005) 5 SCC 194 : 2005 SCC (Cri) 1121] and, therefore, does not add any new dimension to call for any further deliberation on the subject.*

*33. We are not unmindful of the fact that this Court has in several other cases directed sentences of imprisonment for life to run consecutively having regard to the gruesome and brutal nature of the offence committed by the prisoner. For instance, this Court has in Ravindra Trimbak Chouthmal v. State of Maharashtra [Ravindra Trimbak Chouthmal v. State of Maharashtra, (1996) 4 SCC 148 : 1996 SCC (Cri) 608] , while commuting death sentence penalty to one of imprisonment for life directed that the sentence of seven years' rigorous imprisonment under Section 207 IPC shall start running after life imprisonment has run its due course. So also in Ronny v. State of Maharashtra [Ronny v. State of Maharashtra, (1998) 3 SCC 625 : 1998 SCC (Cri) 859] this Court has while altering the death sentence to that of imprisonment for life directed that while the sentence for all other offences shall run concurrently, the sentence under Section 376(2)(g) IPC shall run consecutively after running of sentences for other offences. To the extent these decisions may be understood to hold that life sentence can also run consecutively do not lay down the correct law and shall stand overruled.*

*34. In conclusion our answer to the question is in the negative. We hold that while multiple sentences for imprisonment for life can be awarded for multiple murders or other offences punishable with imprisonment for life, the life sentences so awarded cannot be directed to run consecutively. Such sentences would, however, be superimposed over each other so that any remission or commutation granted by the competent authority in one does not ipso facto result in remission of the sentence awarded to the prisoner for the other.*



**35. We may, while parting, deal with yet another dimension of this case argued before us, namely, whether the court can direct life sentence and term sentences to run consecutively. That aspect was argued keeping in view the fact that the appellants have been sentenced to imprisonment for different terms apart from being awarded imprisonment for life. The trial court's direction affirmed by the High Court is that the said term sentences shall run consecutively. It was contended on behalf of the appellants that even this part of the direction is not legally sound, for once the prisoner is sentenced to undergo imprisonment for life, the term sentence awarded to him must run concurrently.** We do not, however, think so. The power of the court to direct the order in which sentences will run is unquestionable in view of the language employed in Section 31 CrPC. The court can, therefore, legitimately direct that the prisoner shall first undergo the term sentence before the commencement of his life sentence. Such a direction shall be perfectly legitimate and in tune with Section 31 CrPC. The converse however may not be true for if the court directs the life sentence to start first it would necessarily imply that the term sentence would run concurrently. That is because once the prisoner spends his life in jail, there is no question of his undergoing any further sentence. Whether or not the direction of the court below calls for any modification or alteration is a matter with which we are not concerned. The regular Bench hearing the appeals would be free to deal with that aspect of the matter having regard to what we have said in the foregoing paragraphs.

36. The reference is accordingly answered.”

(Emphasis supplied)

In the light of the judgments rendered by the Apex Court as quoted (*supra*), the impugned order requires to be noticed. The impugned order in S.C.No.02 of 2007 rendered on 25.11.2010 insofar as it pertains to imposition of sentence reads as follows:

**"ORDER**

*Accused Nos.1 and 2 are convicted and sentenced to under go Life Imprisonment and shall also pay fine of Rs.50,000/- each and in default of payment of fine they shall under go further rigorous imprisonment for a period of six months in respect of the offence punishable u/s 302 IPC.*

*Accused Nos.1 to 3 are also convicted and sentenced to under go rigorous imprisonment for a period of ten years and shall pay fine of Rs.50,000/- each and in default of payment of fine they shall under go further rigorous imprisonment for a period of six months in respect of the offence punishable u/s 394 of IPC.*

*On deposit of fine, 50% of it shall be paid to PW3 Shanthamma by way of compensation under section 357 of Cr.P.C.,*

*Accused are entitled to benefit of set off under section 428 of Cr.P.C.,*

*So far as property is concerned, MOs 2 to 5, 9 to 13, 25 to 28 being valueless shall be destroyed, rest of the articles shall be returned to PW1 Ganapathy Shetty and PW3 Shanthamma, after expiry of appeal period if no appeal is preferred.*

*Issue conviction warrant and furnish free copy of this judgment to accused forthwith."*

The order directs that the convicts/accused 1 and 2 are ordered to undergo life imprisonment for offence punishable under Section 302 of the IPC. Further, for offence punishable under Section 394 of the IPC, they are required to undergo rigorous imprisonment for 10

years. There is no indication in the order whether the sentences would run concurrently or one after the other. Therefore, the issue with regard to such finding is left unattended by the concerned Court. The maximum punishment that is imposed initially against the petitioners is imprisonment for life for offence punishable under Section 302 of the IPC and later imprisonment for 10 years under Section 394 of the IPC. On the bedrock of the principles laid down by the judgment of the Apex Court that if life imprisonment is the punishment that is imposed, the term sentence will have to run concurrently and in the light of the issue being covered by the judgments quoted (supra), I deem it appropriate direct that the sentence imposed upon the petitioners by the impugned order of conviction dated 25.11.2010 in S.C.No.02 of 2007 passed by District and Sessions Judge, Chikkaballapura would run concurrently.

7. For the aforesaid reasons, the following:

ORDER

- i. The Criminal Petitions are allowed.

- ii. The sentences imposed upon the petitioners in terms of the impugned order of conviction dated 25.11.2010, passed in S.C.No.02/2007, shall run concurrently.

Ordered accordingly.

**Sd/-  
JUDGE**

nvj