

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-46385-2025 in
CRA-D-1474-2025

VICKY GIRI ALIAS VIKKY KUMAR GIRI VS STATE OF HARYANA

ORDER RESERVED ON	ORDER PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
26.11.2025	17.12.2025	FULL PRONOUNCED	17.12.2025

Present: Mr. S.S.Nain, Advocate
for the applicant-appellant.

Mr. Karan Sharma, DAG, Haryana.

FIR No.	Date	Police Station	Sections
278	17.12.2023	City Gurugram	392, 397, 506 r/w 34 IPC and Sections 25(1B)(a) of Arms Act

Criminal Case number before the Sessions Court	CIS No.SC-229-2024 CNR No.HRGR01-005350-2024
Date of Decision	20.10.2025
Date of order on the quantum of sentence	27.10.2025
Name of the convict	Vicky Giri
Conviction under Sections	392, 397, 506 r/w 34 IPC and 25(1B)(a) of Arms Act
Sentence imposed	Substantive sentence/imprisonment for seven years

1. The limited point which the applicant has raised for disposal of the present application is that at the time of pronouncement of sentence, it is not mentioned whether the sentence would run concurrently or consecutively, and as such, it should be presumed that it shall run concurrently and not consecutively.
2. It shall be appropriate to extract the relevant portion of the impugned judgment dated 27.10.2025, which mentions the sentence of the applicant, and it reads as follows:

Convicted under Section	Sentence awarded	In default of fine
392 IPC	Rigorous imprisonment for seven years and to pay a fine of Rs. 10,000/-	Rigorous imprisonment for one year
397 IPC	Rigorous imprisonment for seven years and to pay a fine of Rs. 10,000/-	Rigorous imprisonment for one year
506 read with Section 34 IPC	Rigorous imprisonment for one year and to pay a fine of Rs. 5,000/-	Rigorous imprisonment for six months
25(1B)(a) of the Arms Act 1959	Rigorous imprisonment for two years and to pay a fine of Rs. 5,000/-	Rigorous imprisonment for nine months

3. We have gone through the impugned judgment dated 22.10.2025 and the order of sentence dated 27.10.2025; there is no mention of whether the substantive sentences shall run concurrently or consecutively.

After the enactment of BNSS, 2023, this aspect has undergone a sea change. It shall be relevant to refer to §31 of CrPC, 1973, which reads as follows:

[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 Indian Penal Code (45 of 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.

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4. In Mohd. Akhtar Hussain v. Assistant Collector of Customs, [E-SCR]; 1988-INSC-257, decided on 31.8.1988, the Hon'ble Supreme Court holds,

The basic rule of thumb over the years has been the so called single transaction rule for concurrent sentences. a given transaction If 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.

5. State of Maharashtra v. Najakat Alia Mubarak Ali, [E-SCR]; 2001 INSC 268, decided on 09.05.2001 the Hon'ble Supreme Court holds as follows [Majority view],

In the above context, it is apposite to point out that very often it happens, when an accused is convicted in one case under different counts of offences and sentenced to different terms of imprisonment under each such count, all such sentences are directed to run concurrently. The idea behind it is that the imprisonment to be suffered by him for one count of offence will, in fact and in effect be imprisonment for other counts as well.

6. In Manoj alias Pannu v. State of Haryana, CrA-2063-2013, decided on 09.12.2013, the Hon'ble Supreme Court holds,

[12]. ...As the offences committed by the appellant have been committed under a single transaction, it is well settled position of law that the sentences must run concurrently and not consecutively.

7. In O.M. Cherian alias Thankachan v. State of Kerela, [E-SCR]; 2014-INSC-768, decided on 11.11.2014, a three-Judge bench of the Hon'ble Supreme Court holds,

[10]. Section 31 Cr.P.C. relates to the quantum of punishment which may be legally passed when there is (a) one trial and (b) the accused is convicted of "two or more offences". Section 31 Cr.P.C. says that subject to the provisions of Section 71 IPC, Court may pass separate sentences for two or more offences of which the accused is found guilty, but the aggregate punishment must not exceed the limit fixed in the proviso (a) and (b) of sub-section (2) of Section 31 Cr.P.C. Section 31 (1) Cr.P.C., since the word "may" is used, in our considered view, when a person is convicted for two or more offences at one trial, the court may exercise its discretion in directing that the sentence for each offence may either run consecutively or concurrently subject to the provisions of Section 71 IPC. But the aggregate must not exceed the limit fixed in proviso (a) and (b) of sub-section (2) of

Section 31 Cr.P.C. that is -- (i) it should not exceed 14 years and (ii) it cannot exceed twice the maximum imprisonment awardable by the sentencing court for a single offence.

[11]. The words "*unless the court directs that such punishments shall run concurrently*" occurring in sub-section (1) of Section 31, make it clear that Section 31 Cr.P.C. vests a discretion in the Court to direct that the punishment shall run concurrently, when the accused is convicted at one trial for two or more offences. It is manifest from Section 31 Cr.P.C. that the Court has the power and discretion to issue a direction for concurrent running of the sentences when the accused is convicted at one trial for two or more offences. Section 31

Cr.P.C. authorizes the passing of concurrent sentences in cases of substantive sentences of imprisonment. Any sentence of imprisonment in default of fine has to be in excess of, and not concurrent with, any other sentence of imprisonment to which the convict may have been sentenced.

[12]. The words in Section 31 Cr.P.C. "*.... 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*' indicate that in case, the Court directs sentences to run one after the other, the Court has to specify the order in which the sentences are to run. If the Court directs running of sentences concurrently, order of running of sentences is not required to be mentioned. Discretion to order running of sentences concurrently or consecutively is judicial discretion of the Court which is to be exercised as per established law of sentencing. The court before exercising its discretion under Section 31 Cr.P.C. is required to consider the totality of the facts and circumstances of those offences against the accused while deciding whether sentences are to run consecutively or concurrently.

[13]. Section 31 (1) Cr.P.C. 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) Cr.P.C. ...

8. In *Muthuramalingam v. State Rep. By Insp. of Police*, [E-SCR]; 2016 INSC 1118; [2016] 5 S.C.R. 30, decided on 19-07-2016, a Constitutional Bench of the Hon'ble Supreme Court holds,

[32]. 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 of the Cr.P.C.

9. In *Sharad Hiru Kolambe v. State of Maharashtra*, 20.09.2018 SC 2J [E-SCR]; 2018 INSC 852, the Hon'ble Supreme Court holds,

[10]. There are two provisions in the Code namely Sections 31 and 427 which speak of consecutive and concurrent running of sentences. Section 31 deals with cases where a person is convicted at one trial of two or more offences. The reading of Section 31 makes it clear that unless the Court directs that punishments for such two or more offences at same trial should run concurrently, the normal principle is that the punishments would commence one after the expiration of the other. The provision thus gives discretion to the Court to direct running of such punishments either concurrently or consecutively. Similar discretion is available in Section 427 which deals with cases where a person already undergoing a sentence is later imposed sentence

in respect of an offence tried at subsequent trial. These two provisions namely Sections 31 and 427 thus deal with discretion available to the Court to specify whether the substantive sentences should run concurrently or consecutively.

[15]. In the circumstances, we reject the submission regarding concurrent running of default sentences, as in our considered view default sentences, *inter se*, cannot be directed to run concurrently.

10. In *Sunil Kumar @ Sudhir Kumar v. State of U.P.*, [E-SCR]; 2021-INSC-298, decided on 25.05.2021, the Hon'ble Supreme Court holds,

[21]. While closing on the matter, we deem it appropriate to reiterate what was expounded in the case of *Nagaraja Rao*¹ *supra*, that it is legally obligatory upon the Court of first instance, while awarding multiple punishments of imprisonment, to specify in clear terms as to whether the sentences would run concurrently or consecutively. It needs hardly an emphasis that any omission to carry out this obligation by the Court of first instance causes unnecessary and avoidable prejudice to the parties, be it the accused or be it the prosecution.

11. It shall be relevant to refer to §25 BNSS [Old §31CrPC]

25. (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 9 of the *Bharatiya Nyaya Sanhita, 2023*, sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict and the Court shall, considering the gravity of offences, order such punishments to run concurrently or consecutively.

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12. In the new statute under §25 BNSS 2023, the words, “*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.*” of the old §31CrPC have been omitted. Thus, the presumption that the sentences shall run consecutively, if not explicitly specified to run Concurrently, also eclipses.

13. When there is no presumption and the statute mandates the sentences must be specified, and despite that the mandate is ignored in a sentence, then the presumption would go in favour of the accused and not in favour of the prosecution.

14. Given the above, when the trial Court does not mention that the sentence would run concurrently or consecutively, the *prima facie* benefit should be given to the accused, and it should be *prima facie* presumed that the sentence shall run concurrently, not consecutively.

¹ *Nagaraja Rao v. Central Bureau of Investigation* (2015) 4 SCC 302; [2015] 12 SCR 424

15. In the present case, the highest sentence imposed upon convict Vicky Giri was an imprisonment for seven years, which, as of date, falls in the jurisdiction of the Single Bench. As such, this appeal is to be sent to and listed before Ld. Single Bench.
16. If the applicant files an application for suspension of sentence, the same shall be decided by prima facie presuming that the sentence is concurrent and not consecutive.
17. Application stands disposed off in the terms mentioned above.
18. We would fail in our duty if we did not request the Registrar Listing to bring this aspect to the notice of the Hon’ble Chief Justice, with the following suggestions.
19. Whenever any appeals against conviction or revisions against conviction are filed, and the judgment(s) of conviction are silent on whether the sentences shall run concurrently or consecutively, the Registry should consider listing the matter by prima facie treating the sentences as ‘Concurrently’, i.e., all the sentences shall run simultaneously.
20. To decide the jurisdiction, whether the Appeal/Revision against conviction should be listed before the Single Bench or the Division Bench, because the highest sentence imposed shall be counted and not the total of all the sentences.
21. The observations made herein before are only for the purposes of the present case and shall not be considered as any order or directions to the Registry because it is for Hon’ble the Chief Justice who is the person-in-charge of all listing matters.
22. A copy of this order be sent to the Registrar (Listing) of this Court to bring it to the notice of the Hon’ble the Chief Justice for the Lordship to consider taking a decision on the Administrative Side, being the Head of the Institution.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

December 17, 2025
anju rani

Whether speaking/reasoned	YES
Whether reportable	YES