

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 1137 of 2026

Piyush Chatterjee

Vs.

Abhijit Chowdhury @ Abhijit Chaudhury

For the petitioners : Mr. Kusal Kumar Mukherjee
: Mr. Diptangshu Basu
: Mr. Sayan Das

Heard on : 29.06.2026

Judgment on : 08.07.2026

Dr. Ajoy Kumar Mukherjee, J.

1. In the instant application the petitioner has raised an issue regarding the jurisdiction and inherent power of the High Court, which specifically directed to examine whether the High Court, while invoking its jurisdiction under section 482 Cr.P.C.· read with section 528 of BNSS can invoke section 427 Cr.P.C./467 of BNSS to order that sentences awarded in three different cases shall run concurrently. The Petitioner Piyush Chatterjee has challenged sentence structure imposed in convictions seeking consolidation

of sentences to prevent undue hardship and to ensure justice.

2. The ACJM, Bidhannagore passed three judgments of conviction and order of sentence on 28.11.2024 in connection with three separate complaint cases being **C. Case No. 3014 of 2017, C. Case No. 3147 of 2018 and C. Case No. 139 of 2019** all are in connection with proceeding under section 138 of the Negotiable Instrument Act (in short N.I Act). The ordering portion of the aforesaid respective cases are as follows:-

A. In complaint Case No. 3014 of 2017

The Accused, Piyush Chatterjee is hereby sentenced to suffer simple imprisonment for a term of four months coupled with payment of fine of RS. 4,50,000/- (Four Lakhs Fifty thousands) only, within three months from filing of this order, out of which the entire amount shall be paid & disbursed as compensation u/s 357, Cr.P.C. to the complainant, in default of payment of the compensation amount, the complainant will be at liberty to proceed against the accused under proviso to section 421(1/b), CrPC in order to realize the said amount.

B. In complaint Case No. 3147 of 2018

The accused, Piyush Chatterjee is hereby sentenced to suffer simple imprisonment for a term of four months coupled with payment of fine of Rs. 3,50,000/- (three Lakhs fifty thousands) only, within three months from filing of this order, out of which the entire amount shall be paid & disbursed as compensation u/s 357, Cr.P.C. to the complainant, in default of payment of the compensation amount, the complainant will be at liberty to proceed against the accused under proviso to section 421(1/b), CrPC in order to realize the said amount.

C. In complaint Case No. 139 of 2019

The accused, Piyush Chatterjee is hereby sentenced to suffer simply imprisonment for a term of four months coupled with payment of fine of Rs. 1,50,000/- (One Lakh fifty thousands) only, within three months from filing of this order, out of which the entire amount

shall be paid & disbursed as compensation u/s 357, CrP.C. to the complainant, in default of payment of the compensation amount, the complainant will be at liberty to proceed against the accused under proviso to section 421(1/b), CrPC in order to realize the said amount.

3. In all the above mentioned cases the complaint was lodged by the same complainant against the same accused person namely the petitioner herein. The Trial court passed the aforesaid conviction orders in three complaint cases on the same date and there is no finding in the order of sentences that the sentences shall run concurrently.

4. The petitioner's counsel herein argued that the petitioner was convicted for four months in respect of each of the complaint case and he was taken to custody on 06.09.2025 and since then he has been languishing in custody for about ten months. Even in the absence of passing order of sentence to run concurrently in all the three complain cases, the petitioner has already undergone more than 3/4th of the total sentence awarded for three cases, which can at best be 12 months.

5. He further argued that it appears from the fact of complaint case no.139 of 2019 that the complainant gave a loan to the accused person due to their friendly relationship and the accused person issued a cheque for the part payment of the loan, amounting to Rs. 1 lakh which got dishonoured on the ground of 'account

closed'. In respect of complaint case no. 3147 of 2018 the complainant filed complaint with the similar allegation that he gave loan to the accused person due to friendly relationship and the accused in course of part payment of the loan, issued a cheque of Rs. 2.5 lakhs which got dishonoured on the ground of 'account closed'. In respect of C. Case no. 3014 of 2017 the allegations levelled in the complaint is that complainant gave loan to the petitioner due to friendly relationship and towards part payment of the said loan the accused had issued one cheque of Rs. 3 lakh which got dishonoured on the same ground 'account closed'. Therefore in all the three complaint cases the allegation is that the cheques were given towards part payment of friendly loan advanced by the complainant to the petitioner. It is argued, that the aforesaid three complaint cases have arisen out of successive transactions in a series between the same parties and had been tried together on the basis of almost same set of evidence.

6. He further argued that against the aforesaid three conviction orders, the petitioner herein preferred appeal before the learned Sessions Judge, against all the three conviction orders but the Appellate court had rejected the petitioners appeal on the ground of limitation and refused to dispose of the same on merit.

7. While arguing the relationship between section 427(1) and 482, learned counsel for the petitioner emphasized that inherent power under section 482 is not confined or limited by specific provisions like section 427(1). Drawing from the ***Emperor Vs. Khwaja Nazir Ahmed***, reported in ***(1945) 47 Bom LR 245*** and ***RP Kapoor Vs. State of Punjab***, reported in ***AIR 1960 SC 866*** he submits that the inherent power of the court are expansive and can be utilized to achieve just outcome, specially in a situation where trial court has failed to exercise discretionary power and when the Appellate court dismissed petitioners prayer on the ground of technicality and declined to decide the same on merit. Therefore, High Court's inherent power can very well be invoked to run all the sentences passed in the aforesaid three criminal proceedings concurrently, even without explicit direction made by the Trial Court. He made a distinction between inherent power and those granted by specific sections, affirming that inherent power offers broad flexibility in ensuring justice and therefore he has prayed for direction for releasing the accused person namely petitioner herein, taking all the three aforesaid sentences be run concurrently.

8. Before going further let me reproduce section 427 (1) of the Cr.P.C. and section 482 of the Cr.P.C.

42 7. 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.

482. Saving of inherent powers of High Court.

- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

9. Needless to say that it is well settled that inherent power of the high Court can be invoked sparingly and only when there is a clear failure in the legal process or. an inherent injustice, that cannot be rectified through existing statutory provisions. It is no doubt true that while inherent powers under section 482 Cr.P.C. are broad but they are not to be invoked to interfere with sentencing protocols delineated in other specific sections of the Cr.P.C. When a person is convicted in separate proceedings for multiple bounced cheques, generally each bounced cheques is treated as a distinct and separate offence.

10. Recent judicial pronouncements have clarified that concurrent sentencing is not a matter of right, specially when dishonoured cheques arise for multiple commercial transaction spread over time. In such cases Courts are required to pass consecutive sentences. Section 427 empowers court to direct whether a sentence imposed on a subsequent conviction should run concurrently or consecutively with an earlier sentence. This provisions does not create any presumption in favour of concurrency.

Instead it vests pure discretion in the court to be exercised judicially based on the nature of the offence, the factual matrix, the conduct of the accused and overall ends of justice. In determining whether such relief can be granted, the High Court is to evaluate whether the cheques were part of the same transaction i.e. whether multiple cheques were given for a single transaction, the overall facts circumstances, severity of the cumulative punishment, the conduct of the accused.

11. In **V.K. Bansal Vs. State of Haryana**, reported in **(2013) 7 SCC**

211, the Supreme Court held in para 16 as follows:-

16. In conclusion, we may say that the legal position favours exercise of discretion to the benefit of the prisoner in cases where the prosecution is based on a single transaction no matter different complaints in relation thereto may have been filed as is the position in cases involving dishonour of cheques issued by the borrower towards repayment of a loan to the creditor.

12. In the said judgment it has also been made clear that the direction regarding concurrent running of sentence shall be limited to substantive sentences only. The sentence which the convict has been directed to undergo in default of payment of fine/compensation, shall not be affected by the said direction.

13. Therefore, it is clear from the aforesaid judgment that in order to pass an order that the judgment shall run concurrently, the petitioner must qualify '*single transaction test*' which is the decisive test because the said judgement made it clear that multiple transactions mean multiple sentences.

14. In a dismissal of the Special Leave petition in **K Padamaja Rani Vs. State of Telangana and anr.** arising out of Special Leave to Appeal (Crl) no. 6742 of 2023, decided on 28th July, 2023 the Supreme Court made it clear that only when the conviction arises out of the single transaction, concurrent sentence would be merited. Where there are several transaction over a period of time, the accused is not entitled to benefit of the ratio in **VK Banshal's Case** (supra).

15. The Hon'ble Supreme Court in the judgment of **Shyam Pal Vs. Dayawati Besoya and another** reported in (2016) 10 SCC 761 has held as follow:-

9. *The learned counsel for the appellant has urged that as both the complaints filed by the respondents have arisen out of successive transactions in a series between the same parties and had been tried together on the basis of same set of evidence, the sentences awarded ought to run concurrently, the High Court had failed to appreciate the same. It has been submitted that the appellant is in custody since 25-2-2015 and if the two substantive sentences are construed to run concurrently, he has served not only the substantive sentences but also the sentence in default of fine as on date. That the appellant comes from a poor financial background, as well as is the sole bread earner of the family and that if the two sentences are to run consecutively, he would suffer grave injustice, has been emphasised. No argument, noticeably has been advanced, as abandoned before the High Court as well, impeaching the conviction.*

10. *We have extended our required consideration to few facts and the submissions made. The materials on record leave no manner of doubt that the complaints filed by the respondents stem from two identical transactions between the same parties where under the respondent had advanced a loan of Rs 5 lakhs each to the appellant on two different dates against which the latter had issued cheques to discharge his debt and that the cheques had been dishonoured. The facts pleaded and proved do unassailably demonstrate that the loans advanced had been in the course of a series of transactions between the same parties on same terms and conditions. Significantly in both the cases, following the conviction of the appellant under Section 138 of the Act, the same sentences as well have been awarded. There is thus an overwhelming identicalness in the features of both the cases permitting, the two transactions, though undertaken at different points of time, to be deemed as a singular transaction or two segments of one transaction. This deduction understandably is in the singular facts of the case. (emphasis added)*

16. Therefore, it is clear that though under section 427 (1) of the Cr.P.C the court has the power of discretion to issue a direction that a subsequent sentence shall run concurrently with the previous sentence, the very nature of the power so conferred predicates that the discretion would have to be exercised along with judicial precedents and not in a mechanical pedantic manner. The discretion is to be exercised strictly and not sympathetically. In fact there is no cut and dried formula for the court to follow in exercise of such power and the justifiability or otherwise of the same would depend on the nature of the offence or offences committed and the attending facts and circumstances. It was however postulated that the legal position favours the exercise of the discretion to the benefit of the prisoners in cases where the prosecution is based on a single transaction, no matter even if different complaints in relation thereto might have been filed. Such benefit cannot be extended to transactions which are distinctly different, separate and independent of each other and amongst others, where the parties are not the same.

17. Coming back to the present complaint, it appears from the certified copy of three judgments that the complainant provided friendly loan to the accused/petitioner and in all the three complaint cases, it has been alleged that the cheques were issued towards par payment of the loan

advanced to the accused. Therefore, the petitioner issued three separate cheques to discharge his burden in respect of the same loan which was given by the complainant. The complaints filed by the opposite party stem from three identical transactions between the same parties where under the opposite party had advanced a loan, though the loan amount has not been mentioned in any of the complaint. The petitioner issued three cheques on three different dates to discharge his debts, which got dishonoured. Therefore, the argument made on behalf of the petitioner demonstrates that the loans advanced had been in the course of a series of transactions between the same parties. The petitioner is in custody since 06.09.2025 i.e. for about 10 months and therefore, considering overall facts and circumstances of the case, it appears to me that the cheques were the part of the same singly transaction and considering the facts that the total imprisonment time becomes disproportionately harsh for essentially one underlying loan transaction, I find that this is a fit case where involving jurisdiction of this court under section 482 Cr.P.C., the prayer of the petitioner is required to be allowed in order to secure the ends of justice.

18. Therefore, **CRR 1137 of 2026** is allowed.

19. Substantive sentences awarded to the petitioners by the Trial Court in **complaint case no. 3014 of 2017** and **complaint case no. 3147 of 2018** and **complaint**

case no. 139 of 2019 treated to have been run concurrently. Since the petitioner has already undergone imprisonment for much more than the maximum sentence awarded in a particular case, the trial court is directed to issue release order at once in favour of the petitioner/convict.

20. However, this order shall be limited in respect of the substantive sentences awarded to the petitioner and this will have no concern in respect of the order passed in connection with the payment by way of compensation awarded under section 357 Cr.P.C. to the complainant, in default of which the trial Court has given liberty to the complainant to proceed against the convict/petitioner under the provision of section 421 (1) (b) of Cr.P.C. in order to realize the compensation amount.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)