

[2016] 5 S.C.R. 30

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MUTHURAMALINGAM & ORS.

v.

STATE REP. BY INSP. OF POLICE

(Criminal Appeal Nos. 231-233 of 2009)

B

JULY 19, 2016

**[T.S. THAKUR, CJI, FAKKIR MOHAMED IBRAHIM  
KALIFULLA, A.K. SIKRI, S.A. BOBDE AND  
R. BANUMATHI, JJ.]**

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*Code of Criminal Procedure, 1973:*

*s.31 – Essential ingredients – Discussed.*

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*s.31 – Whether consecutive life sentences can be awarded to a convict on being found guilty of a series of murders for which he has been tried in a single trial – Held: 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 – 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.*

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*s.31 – Applicability in case of life imprisonment – Held: s.31 would permit consecutive running of sentences only if such sentences do not happen to be life sentences since life sentence is a sentence for the remainder of the life of the offender unless the remaining sentence is commuted or remitted by competent authority.*

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*s.31(2) – Applicability of – Held: s.31(2) 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 – 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 – Sub-section (2) will, therefore, have no application to a case tried by the Sessions Court nor would Sub-section (2) step in*

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*to forbid a direction for consecutive running of sentences awardable by the Court of Session.* A

*s.31 – Whether the court can direct life sentence and term sentences to run consecutively – Held: The court can direct that the prisoner shall first undergo the term sentence before the commencement of his life sentence – The converse however would not be applicable.* B

Answering the reference, the Court

**HELD: 1. Section 31 Cr.P.C. 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. [Para 7] [37-H;38-A-D]** C D E F

**2. 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. 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** G

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A happen to be life sentences. That is the only way one can avoid  
an obvious impossibility of a prisoner serving two consecutive  
life sentences. [Para 17] [41-E-H]

3. Section 31(1) deals with and empowers the Court to  
award, subject to the provisions of Section 71 of the 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 happens to be the logic behind Section 427 (2) of the Cr.P.C.  
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. The Parliament, it  
manifests from the provisions of Section 427 (2), 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. [Para 20] [44-C-H; 45-A]

4. Section 31(2) of the Cr.P.C. deals with situations where  
the Court awarding consecutive sentences is not competent to

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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. [Para 25] [47-D-G]

5. As regards the question whether the Court can direct life sentence and term sentences to run consecutively. 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. 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. 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. [Para 32] [49-G; 50-B-D]

*Ranjit Singh vs. Union Territory of Chandigarh* (1991)  
4 SCC 304 : 1991 (3) SCR 742 – distinguished.

*Duryodhan Rout vs. State of Orissa* (2015) 2 SCC 783  
: 2014 (9) SCR 139 – Partly incorrect law.

*O.M. Cherian @ Thankachan vs. State of Kerala & Ors.* (2015) 2 SCC 501 : 2014 (11) SCR 140;  
*Kamalanantha and Ors. vs. State of Tamil Nadu* (2005)

- A **5 SCC 194 : 2005 (3) SCR 182; Sanaullah Khan vs. State of Bihar (2013) 3 SCC 52 : 2013 (1) SCR 1079; Gopal Vinayak Godse vs. State of Maharashtra (1961) 3 SCR 440; Dalabir Singh vs. State of Punjab, (1979) 3 SCC 745 : 1979 (3) SCR 1059; State of Punjab vs. Joginder Singh (1992) 2 SCC 661; Maru Ram vs. Union of India and Ors. (1981) 1 SCC 107; Ashok Kumar @ Golu vs. Union of India (1991) 3 SCC 498 : 1991 (2) SCR 858; Laxman Naskar vs. Union of India (2000) 2 SCC 595 : 2000 (1) SCR 796; Subash Chander vs. Krishan Lal (2001) 4 SCC 458 : 2001 (2) SCR 864;**
- C **Shri Bhagwan vs. State of Rajasthan (2001) 6 SCC 296 : 2001 (3) SCR 656; Swamy Shraddhananda vs. State of Karnataka (2008) 13 SCC 767 : 2008 (11) SCR 93; Union of India vs. Sriharan 2015 (13) SCALE 165; Mohd. Akhtar Hussain @ Ibrahim Ahmed Bhatti vs. Assistant Collector of Customs (Prevention), Ahmedabad and Anr. (1988) 4 SCC 183 : 1988 (2) Suppl. SCR 747;**
- D **Manoj @ Panu vs. State of Haryana (2014) 2 SCC 153; Kamalanantha vs. State of Tamil Nadu (2005) 5 SCC 194 : 2005 (3) SCR 182; Sanaullah Khan vs. State of Bihar (2013) 3 SCC 52 : 2013 (1) SCR 1079; Ravindra Trimbak Chouthmal vs. State of Maharashtra (1996) 4 SCC 148 : 1996 (2) SCR 1009; Ronny vs. State of Maharashtra (1998) 3 SCC 625 : 1998 (2) SCR 162 – referred to.**
- E

#### Case Law Reference

F	<b>2014 (11) SCR 140</b>	<b>referred to</b>	<b>Para 4</b>
	<b>2014 (9) SCR 139</b>	<b>partly incorrect law</b>	<b>Para 4</b>
	<b>2005 (3) SCR 182</b>	<b>referred to</b>	<b>Para 5</b>
	<b>2013 (1) SCR 1079</b>	<b>referred to</b>	<b>Para 5</b>
	<b>(1961) 3 SCR 440</b>	<b>referred to</b>	<b>Para 10</b>
G	<b>1979 (3) SCR 1059</b>	<b>referred to</b>	<b>Para 11</b>
	<b>(1992) 2 SCC 661</b>	<b>referred to</b>	<b>Para 12</b>
	<b>(1981) 1 SCC 107</b>	<b>referred to</b>	<b>Para 13</b>
	<b>1991 (2) SCR 858</b>	<b>referred to</b>	<b>Para 14</b>

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2000 (1) SCR 796	referred to	Para 15	A
2001 (2) SCR 864	referred to	Para 16	
2001 (3) SCR 656	referred to	Para 16	
2008 (11) SCR 93	referred to	Para 16	
2015 (13) SCALE 165	referred to	Para 16	
1991 (3) SCR 742	distinguished	Para 18	B
1988 (2) Suppl. SCR 747	referred to	Para 22	
(2014) 2 SCC 153	referred to	Para 22	
2005 (3) SCR 182	referred to	Para 27	
2013 (1) SCR 1079	referred to	Para 29	C
1996 (2) SCR 1009	referred to	Para 30	
1998 (2) SCR 162	referred to	Para 30	

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 231-233 of 2009

WITH

Crl. A. Nos. 225, 226-227 and 895 of 2009 and Crl. A. No. 429 of 2015.

From the Judgment and Order dated 14.12.2007 of the Madurai Bench of Madras High Court in Crl. A. (MD) No. 323, 328 and 451 of 2006.

A. T. M. Rangaramanujam, Subramonium Prasad, Sr. Advs., K. K. Mani, Mrs. T. Archana, G. Sivabalamurugan, Ms. Vandana, Anis Mohd. L. K. Pandey, Hitesh Kumar Sharma, Dipankar Das, Ms. Anu Gupta, Renjith Marar, B. Vinodh Kanna, Raghavendra S. Srivatsava, M. Yogesh Kanna, Jayant Patel, Utkarsh Srivastava, Ashmeet Singh, M. Yogesh Kanna, Advs. for the appearing parties.

The Judgment of the Court was delivered by

**T.S. THAKUR, CJI.** 1. A Bench comprising three-Judges of this Court has referred to us the following short but interesting question:

*"Whether consecutive life sentences can be awarded to a convict on being found guilty of a series of murders for which he has been tried in a single trial?."*

2. The question arises in the following circumstances:

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A 3. The appellants were tried for several offences including an  
 offence punishable under Section 302 of the Indian Penal Code, 1860  
 (for short, "the IPC") for several murders allegedly committed by them  
 in a single incident. They were found guilty and sentenced to suffer  
 varying sentences, including a sentence of imprisonment for life for each  
 B one of the murders committed by them. What is important is that the  
 sentence of imprisonment for life for each one of the murders was directed  
 to run consecutively. The result was that the appellants were to undergo  
 consecutive life sentences ranging between two to eight such sentences  
 depending upon the number of murders committed by them. Criminal  
 appeals preferred against the conviction and the award of consecutive  
 C life sentences having failed, the appellants have filed the present appeals  
 to assail the judgments and orders passed by the courts below.

4. When the appeals came up for hearing before a three-Judge  
 Bench of this Court, learned counsel for the appellant appears to have  
 confined his challenge to the validity of the direction issued by the Trial  
 D Court and affirmed by the High Court that the sentences of imprisonment  
 for life awarded to each one of the appellants for several murders allegedly  
 committed by them would run consecutively and not concurrently. It  
 was argued that in terms of Section 31 of the Criminal Procedure Code,  
 1973 (for short, "the Cr.P.C."), the sentence of life imprisonment awarded  
 E to the appellants for different murders alleged to have been committed  
 by them could run concurrently and not consecutively as ordered by the  
 Trial Court and the High Court. Reliance in support of that submission  
 was placed upon a decision of a three-Judge Bench of this Court in  
*O.M. Cherian @ Thankachan vs. State of Kerala & Ors.*, (2015) 2  
 SCC 501 and a three-Judge Bench decision of this Court in *Duryodhan*  
 F *Rout vs. State of Orissa* (2015) 2 SCC 783.

5. On behalf of the respondent – State of Tamil Nadu, reliance  
 appears to have been placed upon two other decisions of this Court in  
*Kamalanantha and Ors. vs. State of Tamil Nadu*, (2005) 5 SCC 194  
 and *Sanaullah Khan vs. State of Bihar*, (2013) 3 SCC 52 to argue that  
 G it was legally permissible to award more than one life sentence to a  
 convict for different murders committed by him with a direction that the  
 sentences so awarded shall run consecutively. The Bench hearing the  
 appeal noticing a conflict in the views taken by this Court on the question  
 whether consecutive life sentences were legally permissible, directed  
 the matter to be placed before a larger bench comprising Five Judges to  
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resolve the conflict by an authoritative pronouncement. That is precisely how these appeals have been placed before us for an authoritative pronouncement. A

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

*"31. Sentences 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.* C D

*(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: Provided that-* E

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

*(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."* G

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 H



A 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. Interpreting Section 31(1), a three-Judge Bench of this Court in *O.M. Cherian's* case (*supra*) declared that if two life sentences are imposed on a convict the Court must necessarily direct those sentences to run concurrently. The Court said:

E *"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,*

F *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*

G *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*

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*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."* A

8. To the same effect is the decision of a two-Judge Bench of this Court in *Duryodhan Rout's* case (supra) 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. B C

9. 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* and *Duryodhan Rout* cases (supra) 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* and *Duryodhan Rout's* cases (supra). 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. D E

10. In *Gopal Vinayak Godse vs. State of Maharashtra*, (1961) 3 SCR 440 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. F

11. In *Dalabir Singh vs. State of Punjab*, (1979) 3 SCC 745 a three-Judge Bench of this Court observed: G

*"....life imprisonment 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"* H.

A *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."*

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12. Again in *State of Punjab vs. Joginder Singh* (1992) 2 SCC 661, 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 of the Cr.P.C.

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13. In *Maru Ram vs. Union of India and Ors.* (1981) 1 SCC 107 also this Court following *Godse's* case (*supra*) 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 sentences is remitted by the Government. The Court observed:

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*"We follow Godse's case 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."*

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14. In *Ashok Kumar @ Golu vs. Union of India* (1991) 3 SCC 498, 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 of the IPC the said expression would ordinarily mean the full and complete span of life. The following passage in this regard is apposite:

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"12. xxx.  
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. ...."

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15. 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. A

16. Reference may also be made to the decisions of this Court in *Subash Chander vs. Krishan Lal*, (2001) 4 SCC 458, *Shri Bhagwan vs. State of Rajasthan*, (2001) 6 SCC 296 and *Swamy Shraddananda vs. State of Karnataka*, (2008) 13 SCC 767 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 vs. Sriharan*, 2015 (13) SCALE 165 also had another occasion to review the case law on the subject. Relying upon the decisions of this Court in *Sambhaji Krishna, Ratan Singh, Maru Ram and Ranjit Singh's* cases (supra) this Court observed: B C

*"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."* D E

17. 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 Cr.P.C. 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. F G

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- A 18. A somewhat similar question fell for consideration before a three-Judge Bench of this Court in *Ranjit Singh vs. Union Territory of Chandigarh*, (1991) 4 SCC 304. 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<sup>th</sup> September, 1983 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<sup>th</sup> September, 1983 was contrary to Section 427 (2) of the Cr.P.C., 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. Relying upon *Godse's* and *Muru Ram's* cases (supra), this Court held 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:

"8.xxxxxxxx

- F *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*
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*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."*

19. Having said that, this Court 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 :

"xxxxxxx

*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."*

- A        20. *Ranjit Singh's case* (supra) 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's case* (supra) was covered by Section 427 of the Cr.P.C. 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 of the 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) of the Cr.P.C. 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. The Parliament, it manifests from the provisions of Section 427 (2), 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
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cannot be directed to run consecutively. The provisions of Section 427 (2) apart, in *Ranjit Singh's* case (supra), 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 of the Cr.P.C. also no matter Section 31 does not in terms make a provision analogous 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) 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 super imposed 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.

21. We may now turn to the conflict noticed in the reference order between the decisions of this Court in *Cherian and Duryodhan's* cases (supra) on the one hand and *Kamalanatha and Sanaullah Khan's* cases (supra) on the other.

22. In *O.M. Cherian's* case (supra) the prisoner was convicted and sentenced to imprisonment for offences punishable under Sections 498 A and 306 of the IPC. The Courts below had in that case awarded to the convicts imprisonment for two years under Section 498 A of the IPC and seven years under Section 306 of 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 to a larger bench of Three Judges of this Court in the light of the decision in *Mohd. Akhtar Hussain @ Ibrahim Ahmed Bhatti vs. Assistant Collector of Customs (Prevention), Ahmedabad and Anr.* (1988) 4 SCC 183. Before the larger bench, the prisoners relied upon *Mohd Akhtar Hussain's* case (supra) and *Manoj @ Panu vs. State of Haryana* (2014) 2 SCC 153 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 of the Cr.P.C. vested the



A 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.

23. As noticed above, *Cherian's* case (supra) 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.

24. In *Duryodhan Rout's* case (supra) the prisoner was convicted for offences punishable under Sections 302, 376 (2)(f) and 201 of the 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 of IPC with a direction that the sentences would run consecutively. In appeal, the High Court altered 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's* case (supra) 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 of the Cr.P.C. 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) of the Cr.P.C. The Court observed:

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*"Section 31 of Cr.P.C. relates to sentence in cases of conviction of several offences at one trial. Proviso to Sub-Section (2) to 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."*

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25. 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) of the Cr.P.C. 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.

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26. To the extent *Duryodhan Rout* case (supra) 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

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A otherwise sound and acceptable.

27. In *Kamalanantha vs. State of Tamil Nadu*, (2005) 5 SCC 194, the prisoners were convicted amongst others for offences under Sections 376, 302, 354 of the IPC and sentenced to under rigorous imprisonment for life for offences under Sections 376 and 302 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:

C       *"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*  
 D       *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*  
 E       *Court. In our opinion the term "imprisonment" would*  
           *include the sentence of imprisonment for life."*

28. The above view runs contrary to the ratio of this Court's decision in *Cherian's case (supra)* and *Duryodhan Rout's case (supra)*. That apart the view taken in *Kamalanantha's case* 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's case* 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* 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

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earlier. We need to remember that award of multiple sentences of imprisonment for life so that such sentences are super imposed over one another is entirely different from directing such sentence to run consecutively. A

29. *Sanaullah Khan vs. State of Bihar*, (2013) 3 SCC 52 simply follows the view taken in *Kamalanantha's* case and, therefore, does not add any new dimension to call for any further deliberation on the subject. B

30. 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 vs. State of Maharashtra* (1996) 4 SCC 148, 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 *Rommy vs. State of Maharashtra* (1998) 3 SCC 625 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) 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. C  
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31. 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 super imposed 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. F

32. 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 G

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- A 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,
- B 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 of the Cr.P.C. 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. The converse however may not be true for if the
- C 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
- D deal with that aspect of the matter having regard to what we have said in the foregoing paragraphs.

33. The reference is accordingly answered.

E Devika Gujral

Reference answered.