

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM NO. M-29617 of 2014
DECIDED ON : March 19, 2015**

Jabbar

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Vikas Chopra, DAG. Haryana.

Mr. Vivek Goel, Advocate
for respondents No. 2 to 7.

None for respondents No.8 to 14.

JASPAL SINGH, J. (ORAL)

Instant petition has been preferred under Section 482 Cr.P.C for setting aside impugned order dated April 22, 2014 passed by learned Sessions Judge, Palwal on application for clubbing criminal complaint No. 316 dated October 31, 2012 captioned as Jabbar vs. Udaiveer etc pending in the Court of learned Judicial Magistrate Ist Class, Palwal and Sessions case No. 44 of 2013 arising out of FIR No. 99 of 2012 registered at Police Station Chandhat, Palwal captioned as State vs. Fakira and others, has been dismissed.

2. The contention of learned counsel for petitioner is that on May

12, 2012, Ravinder-respondent No.3 got registered a case bearing FIR No. 99 dated May 12, 2012 under Sections 148, 149, 323, 324, 452, 506, 427 and 307 IPC, Police Station Chandhat, District Palwal on the allegations that petitioner as well as respondents No.8 to 14 caused injuries to him, Udaiveer and Jai Singh on May 11, 2012 at about 8.00/9.00 PM. Petitioner lodged a complaint under Section 156(3) Cr.P.C. against respondents No.2 to 7 with averment that they caused injuries to him, Dilshad and Munni on May 11, 2012 at about 5.00/6.00 PM. The said complaint is fixed for recording pre-charge evidence. During pendency of both above-referred proceedings, petitioner moved an application before learned Sessions Judge, Palwal for clubbing both the cases to avoid conflicting judgments as both the cases are outcome of same incident. The said application has been wrongly and illegally dismissed by learned trial Court.

3. Since, both the cases arose out of same incident but are being tried by two different courts, there is every risk that two different courts may come to conflict in recording findings and to obviate such risk, it is desirable that both cases should be dealt with, tried and disposed of by the same court. To buttress this contention, learned counsel for the petitioner has placed reliance upon **Amarjit Singh vs. State of Haryana; 2012 (2) RCR (Criminal) 635.**

4. While concluding his arguments, it has further been submitted by learned counsel for petitioner that impugned order dated April 22, 2014 is not sustainable in the eyes of law. As such, the same is liable to be set aside. Resultantly, application dated March 27, 2014 deserves to be

accepted.

5. Per contra, learned State counsel as well as learned counsel for respondents No.2 to 7 have controverted the submissions made by learned counsel for the petitioner by submitting that both the cases i.e. State case and complaint case pertain to different occurrences/incidents and are not outcome of one and the same occurrence. As per contents of FIR No. 99 dated May 12, 2012, occurrence took place at about 8.00/9.00 PM on May 11, 2012 whereas, as per allegations unfolded in the complaint, occurrence is alleged to have taken place at about 5.00/6.00 PM on May 11, 2012. Since both the cases are not outcome of same occurrence, then request for clubbing the complaint and State case has rightly been declined by learned trial Court.

6. This court has given an anxious thought to the submissions made by learned counsel for the parties and have meticulously gone through the impugned order as well as documents annexed with the instant petition.

7. As per legal proposition when two cases arising out of the same occurrence, are tried by two different courts, then there is a risk of two courts coming to conflicting findings and to obviate such a risk, it is ordinarily desirable that both the cases should be tried separately but by the same court. In the case in hand, it stands proved that both the cases are not version and cross-version and did not originate from the same incident. In this eventuality, legal proposition envisaged in Amarjit Singh's case (supra) is not applicable, especially, in the circumstances that FIR No. 99 dated May 12, 2012 regarding which the trial is pending in the

Court of learned Sessions Judge, Palwal and complaint case which is pending in the Court of learned Judicial Magistrate Ist Class, Palwal are in respect of two different incidents and are to be tried separately, which is legally justified.

8. Since, there is no infirmity or illegality in the impugned order, instant petition being devoid of merits is hereby, dismissed.

March 19, 2015
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(JASPAL SINGH)
JUDGE