

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

R-46

+

CRL.A. 171/2019

VIPUL KUMAR

Through

..... Appellant

Mr. Pradeep Rana with Mr. Sumit Chaudhary, Mr. Kanwar Kochar, Mr. Anushasit Arya, Ms. Akansha Bansal and Mr. Abhishek Rana, Advocates

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through

Ms. Aashaa Tiwari, APP with Insp. Pramod Joshi, SHO/Gokul Puri for State.

WITH

R-47

+

CRL.A. 380/2019

RAM KHILADI

Through

..... Appellant

Mr. Sunil Kumar, Advocate (DHCLSC)

versus

STATE (GOVT OF NCT DELHI) & ANR Respondents

Through

Ms. Aashaa Tiwari, APP with Insp. Pramod Joshi, SHO/Gokul Puri for R-1/State.
Mr. Arjun Singh, Advocate for R-2 and 3.

AND

R-48

+ CRL.A. 671/2019

STATE OF NCT OF DELHI

Through

..... Appellant

Ms. Aashaa Tiwari, APP with
Insp. Pramod Joshi, SHO/Gokul Puri
for State.

versus

KUMAR PAL & ANR

Through

..... Respondents

Mr. Arjun Singh, Advocate for
respondents

AND

R-48A

+ CRL.A. 1400/2019

VIPUL KUMAR

Through

..... Appellant

Mr. Pradeep Rana with Mr. Sumit
Chaudhary, Mr. Kanwar Kochar,
Mr. Anushasit Arya, Ms. Akansha
Bansal and Mr. Abhishek Rana,
Advocates

versus

STATE & ORS.

Through

..... Respondents

Ms. Aashaa Tiwari, APP with
Insp. Pramod Joshi, SHO/Gokul Puri
for R-1/State.
Mr. Sunil Kumar, Advocate
(DHCLSC) for R-2 to R-6.

%

Date of Decision: 11th December, 2019

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J (Oral):

CRL.A. 380/2019

Admit.

CRL.As. 171/2019, 380/2019, 671/2019, 1400/2019

1. While Criminal Appeal No. 1400/2019 has been filed challenging the judgment and order dated 30th November, 2017 passed in Sessions Case No. 104/2012 in FIR No. 101/2004 registered with PS Gokul Puri, Criminal Appeal Nos. 171/2019, 380/2019 and 671/2019 have been filed challenging the judgment and order dated 22nd December, 2018 passed in Sessions Case No. 44265/2015 in FIR No. 15/2003 registered with PS Gokul Puri.
2. The admitted position is that FIR Nos. 15/2003 and 101/2004 are cross FIRs relating to the same incident that took place between the parties on 12th January, 2003.
3. Learned counsel for the appellants in Criminal Appeal Nos. 171/2019 and 1400/2019 points out that though the cross-FIRs were registered with regard to the same incident, yet the cases were decided by the trial court after a gap of more than one year from each other. He submits that the trial court failed to appreciate that the arguments in cross-FIRs had to be heard simultaneously and it could not have passed the judgment in one case only and postponed the judgment in the other case by more than a year. He states that the trial court should have reserved the judgments in the first case till the arguments in the other case had concluded. In support of his submission, he relies upon the judgment of the Supreme Court in *Nathi Lal and Others Vs. State of U.P. and Another, 1990 (Supp) SCC 145*.

4. It is settled law that in cases of cross-FIRs each case must be decided on the basis of the evidence which had been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case, but the judgments in both the cases have to be pronounced by the same learned Judge one after the other. The Supreme Court in **Nathi Lal and Others** (supra) in order to avoid conflicting decisions with regard to the same incident has given its approval to the following procedure to be followed by the trial court:-

"We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other."

5. Since in the present cases, the cross-cases have been decided after a gap of more than one year, this Court is of the view that the procedure laid down by the Supreme Court in the aforesaid case has not been followed.

6. Consequently, the impugned judgments dated 30th November, 2017 passed in Sessions Case No. 104/2012 and dated 22nd December, 2018 passed in Sessions Case No. 44265/2015 are set aside and the matters are

remanded back to the trial court for determination afresh in accordance with law and the ratio laid down in *Nathi Lal and Others* (supra) within a period of six months.

7. It is clarified that the rights and contentions of all the parties are left open.

8. Learned Sessions Judge is directed to assign the present cases to any criminal court other than the court of Mr. Raghubir Singh, Addl. Sessions Judge-02 (North-East) who had passed the impugned judgments.

9. Parties are directed to appear before the trial court on 8th January, 2020. Registry is directed to send back the trial court record forthwith.

10. Consequently, present appeals stand disposed of.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 11, 2019

rn