

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision : 06.12.2023

1. CRR-1225-2017 (O&M)

Devender Kumar & others Petitioners

versus

Baldev & another Respondents

2. CRR-2887-2017

Baldev & others Petitioners

versus

Devender Kumar & others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Deepender Singh, Advocate
for the petitioners in CRR-1225-2017 and
for respondent No.1 in CRR-2887-2017.

Mr. Somnath Saini, Advocate
for the petitioners in CRR-2887-2017 and
for respondent No.1 in CRR-1225-2017.

PANKAJ JAIN, J.

1. These are two revisions filed by accused in FIR No.206 dated 19.04.2003, registered for offences punishable under Sections 323, 324, 325 and 506 of IPC read with Section 34 of IPC at Police Station Sadar Gurgaon.

2. The main plea raised by the petitioner is that there were two cross cases between the parties arising out of same occurrence. There were two FIRs and both the FIRs were tried separately and disposed off by two separate judgments. However, the Appellate Court decided both

the appeals vide same judgment.

3. Counsel for the respondent is not in a position to defend. The procedure involving two FIRs regarding same incident has also been laid down by the Supreme Court in the case of *Nathilal vs. State of U.P., 1990 (Supp.) SCC 145*, pointed out the procedure to be followed by the trial Court in the event of cross cases and it was observed as under:-

“xx xx xx

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.”

4. In view of above, the Appellate Court ought to have decided both the appeals separately. The rationale behind trial of cross cases together by the same Court is to avoid the conflicted judgments over the

same incident. However, at the time, the Courts have to be alive to the fact that the evidence recorded in each cross case remains in watertight compartments and cannot be looked into to influence decision on the other case. Each case has to be decided on the basis of evidence placed on record in that particular case.

5. Keeping in view the fact that the Appellate Court has completely intermingled the evidences and the judgments in both the cases, this Court does not find that the same can be sustained. Resultantly, the present revision petitions are allowed. Impugned judgment dated 27.02.2017 passed by the Appellate Court is hereby set aside. Parties are directed to appear before the Appellate Court on **27.02.2024**.

6. Ordered accordingly.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

06.12.2023
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No