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(1999) CriLR 139 : (1990) Sup SCC 145 : (1990) SCC(Cri) 638

SUPREME COURT OF INDIA

DIVISION BENCH

(Before : M.P. Thakkar and B.C. Ray, JJ.)

NATHI LAL – Appellant

Vs.

STATE OF UTTAR PRADESH. – Respondent

Criminal Appeal No. 372 of 1988

Decided on : 19-07-1988

Recording of evidence - 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 the 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 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

ORDER

M.P. Thakkar, J.—Special leave granted. Heard both the sides.

2. 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 the 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.

3. We allow this appeal partly to the aforesaid extent and direct the learned Judge to proceed with the police case and the cross case instituted by the respondent-complainant by way of a private complaint and hold the trial in both the matters in the light of the directions given hereinabove. Learned Judge will accord priority to these cross cases and dispose of both the cases expeditiously.