



2026:AHC:61468

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**APPLICATION U/S 528 BNSS No. - 5962 of 2026**

Pankaj Kumar Yadav And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

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| Counsel for Applicant(s)      | : | Dashrath Lal |
| Counsel for Opposite Party(s) | : | G.A.         |

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**Court No. - 81**

**HON'BLE CHAWAN PRAKASH, J.**

1. Heard Sri Dashrath Lal Yadav, learned counsel for the applicants, learned A.G.A. for the State and learned counsel for the opposite party no. 2 and perused the record.

2. The present application under Section 528 B.N.S.S. has been filed to direct the trial court to club the Sessions Trial No. 365 of 2023 (State Vs. Pankaj Yadav and others), under Sections 323, 308, 452, 504, 506 I.P.C., Police Station Jhunsi, District Prayagraj, pending in the court of Additional Sessions Judge/FTC-I, Allahabad/Prayagraj with Complaint Case No. 143 of 2022 (Manju Vs. Bhanu Pratap and others), under Sections 323, 354, 504, 308 I.P.C., Police Station Jhunsi, District Prayagraj, pending in the court of Additional Chief Judicial Magistrate, Court No. 5, Allahabad/Prayagraj and both the cases may be directed to be decided by a common order.

3. It is submitted by learned counsel for the applicants that a first information report was lodged by opposite party no. 2 against the applicants regarding an incident dated 15.04.2022 occurred at 9.00 P.M., which was registered as Case Crime No. 0167 of 2022, under Sections 323, 308, 452, 504 I.P.C. against the applicants. After investigation, charge sheet No. 02 of 2022, under Sections 308, 452, 323, 504, 506 I.P.C. was submitted and cognizance was taken by the learned Magistrate. Thereafter the matter was committed to the court of Session and the same is pending as Session Trial No. 265 of 2023 before the learned Additional Sessions Judge/FTC-I, Allahabad. It is further submitted that wife of applicant no. 1, Smt. Manju Yadav, filed an application under Section 156(3) Cr.P.C. regarding the incident dated 15.04.2022 occurred at 9.00 P.M. The same was treated as complaint case and opposite party no. 2 and other persons were summoned

under Sections 323, 354, 504, 308 I.P.C. Both the cases are related to the same incident, which was occurred on 15.04.2022 at 9.00 P.M. The learned Additional Sessions Judge/F.T.C.-I, Allahabad may kindly be directed to club both the cases and decide the same by a common order.

4. *Per contra*, learned counsel for the opposite party no. 2 opposed the submissions made by learned counsel for the applicants and submitted that the opposite party no. 2 got lodged a first information report against the applicants in which charge sheet was submitted and the same is pending as S.T. No. 365 of 2023 pending before the learned Additional Sessions Judge/F.T.C.-I, Allahabad whereas complaint Case No. 143 of 2022 is still pending before the learned Additional Chief Judicial Magistrate, Court No. 5, Allahabad and case has not been committed to the court of Session. Hence, the learned Additional Additional Sessions Judge/F.T.C.-I, Allahabad, who is trying the case, cannot be clubbed both the cases and the application is liable to be dismissed.

5. As per fact of this case, the opposite party no. 2 lodged a first information report against the applicants. The police after completing investigation, submitted charge sheet against the applicants and the case was committed to the court of Session and same is pending before the learned Additional Sessions Judge/FTC-I, Allahabad. The wife of the applicant no. 1 Manju Yadav filed an application under Section 156(3) Cr.P.C. against the opposite party no. 2 and other persons regarding the incident dated 15.04.2022 occurred at 9.00 P.M. in which the opposite party no. 2 and other family members were summoned under Sections whereas the complaint case No. 143 of 2022 (Manju Vs. Bhanu Pratap and others), under Sections 323, 354, 504, 308 I.P.C. and the same is pending as Complaint Case No. 143 of 2022 before the learned Additional Chief Judicial Magistrate, Court No. 5, Allahabad.

6. It is admitted to the learned counsel for the applicants that the Complaint Case No. 143 of 2022 has not been committed to the court of Session. Hence, at this stage, learned Additional Sessions Judge, who is trying Sessions Trial No. 365 of 2023, cannot try both the cases together.

7. It is a salutary practice, when two criminal cases relate to the same incident, they are tried and disposed of by the same court by pronouncing judgments on the same day. Such two different versions of the same incident

resulting in two criminal cases are compendiously called cross cases.

8. When one of the two cases (relating to the same incident) is charge-sheeted or complained of, involves offences or offence exclusively triable by a Court of Sessions, but none of the offences involved in the other case is exclusively triable by the Sessions Court. The magistrate before whom the former case reaches has no escape from committing the case to the Sessions Court as provided in Section 209 of the Code. Once the said case is committed to the Sessions Court, thereafter it is governed by the provisions subsumed in Chapter XVIII of the Code. If any complaint case or case is pending before the learned Magistrate and concerned Magistrate in any inquiry into an offence or trial before it, finds at any stage of proceeding that said case is triable by the court of Sessions, the court of Magistrate can exercise the special power conferred on him by virtue of Section 323 of the Code.

9. The applicants have opportunity to file an application before the concerned Magistrate for getting the said case committed to the court of Sessions as per provisions given in Section 323 Cr.P.C.

10. The application lacks merit and is accordingly **dismissed**.

**March 25, 2026**

Rmk.

**(Chawan Prakash,J.)**