REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. OF 2026
(@ SPECIAL LEAVE PETITION (CRIMINAL) No.7334/2026)

DANISH & ORS. ..... APPELLANT(S)

VERSUS

STATE OF UP & ANR. ..... RESPONDENT(S)

O R D E R

1. Leave granted.

2. We have heard learned counsel for the parties.

3. Appellants are aggrieved by order dated 30.10.2025, passed by the High Court of Judicature at Allahabad (briefly the 'High Court' hereinafter) whereby the order of the learned Sessions Judge rejecting the prayer of the second respondent for consolidation of the two cases was set aside with a further direction to consolidate the two cases.

4. Before we advert to the two orders, it would be appropriate to briefly narrate the relevant facts.

5. As per FIR dated 01.07.2021 lodged by one Irfan,

Signature Not Verified
Digitally signed by IRAMNAZ
Date: 2026.10.09 12:00:23 IST
Reason:

i.e., father of the first appellant, the accused persons, namely, Jamshed, Pappu, Amir, Sahil, Sahib, Suhaib and Sattar, trespassed into their house. They were armed with sharp edged weapons, sticks, danda, tabal and knife. They indiscriminately attacked the inmates of the house and the two sons of the informant; Danish and Aamir sustained serious injuries in their head and suffered fracture on the bones.

6. This FIR was registered by the Baraut Police Station as Case Crime No.759 of 2021 under Sections 147, 148, 149, 323, 308, 354, 354-B, and 506 of the Indian Penal Code, 1860 (for short, 'IPC').

7. Five days later, i.e., on 06.07.2021, Sameena, wife of Momin, lodged a complaint before the Chief Judicial Magistrate at Baghpat naming the following persons as accused: Danish, Aamir, Irfan, Gulfam, Javed and Arshad.

8. In the complaint, it was stated that at about 10:00 PM of 01.07.2021, the accused persons forcibly entered into her house carrying iron rods, firearms and knives. They started abusing the inmates and assaulted the complainant and her husband.

9. It may be mentioned that Case Crime No.759 of 2021

has since been registered as Sessions Trial No.344 of 2022 on the file of Additional Sessions Judge/Fast Track Court No.1, Baghpat under Sections 147, 148, 149, 452, 323, 504, 506, 354, 324, 325 and 301 IPC. On the other hand, the complaint was registered as Complaint Case No.5725 of 2021 before the Court of Judicial Magistrate, First Class, Baghpat under Sections 147, 148, 452, 324, 323 and 506 IPC.

10. In Sessions Trial No.344 of 2022, respondent No.2 filed an application for clubbing of the Complaint Case No. 5725 of 2021 with the aforesaid case.

11. However, learned Additional Sessions Judge *vide* the order dated 09.09.2025 took the view that the later complaint is not a cross case; therefore, he rejected the prayer for consolidation.

12. Against this order, the second respondent moved an application before the High Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS'). High Court recorded that learned counsel for both the parties agreed on one point that the incidents arising out of Case Crime No.759 of 2021 and Complaint Case No.5725 of 2021 are the same and occurred at the same time as well as both the parties

sustained injuries.

13. Considering the above, the High Court *vide* the order dated 30.10.2025 set aside the order of the learned Additional Sessions Judge dated 09.09.2025 and directed that Complaint Case No.5725 of 2021 be consolidated with Sessions Trial No.344 of 2022 and tried together.

14. It is this order which is in impugnment in the present appeal.

15. This Court *vide* the order dated 21.04.2026 had issued notice and stayed the impugned order of the High Court dated 30.10.2025 as well as further proceedings in Complaint Case No.5725 of 2021 and Sessions Trial No.344 of 2022.

16. Learned counsel for the appellants submits that in so far Sessions Trial No.344 of 2022 is concerned, the same is now at the final stage of arguments. It is an attempt by the accused persons to delay the proceedings by getting the complaint case consolidated with the sessions case. He also submits that situs of the two incidents though may be in the near vicinity of each other, nonetheless, these are two separate incidents. The fact that the complaint was lodged 5

days after lodging of the FIR itself indicates that it is certainly not a cross case. He further submits that appellants have taken steps against the learned counsel who had represented them before the High Court as they had not consented to consolidation. He has also placed reliance on a judgment of this Court in the case of *Lakshmanan vs. State* reported in 2025 SCC OnLine 2889. He, therefore, submits that the impugned order of the High Court should be set aside and the Sessions Trial may be allowed to proceed unhindered by consolidation with the complaint case.

17. Per contra, learned counsel for the respondent No.2 strenuously argued that notwithstanding the delay in lodging of the complaint, it is evident that the two incidents leading to lodging of the FIR and the compliant are connected with each other. He has extensively referred to the proceedings before the courts including that of the High Court to contend that it was on a concession by the learned counsel for the appellants that the High Court directed consolidation. No prejudice will be caused to the appellants if both the cases are tried together. As a matter of fact, after the impugned order was passed by the High Court, the complaint case has also been

placed before the same Court to be tried as a sessions case being Sessions Case No.144 of 2026.

18. On the other hand, Mr. Bansal, learned State counsel submits that it would be beneficial for both the sides if there is a joint trial. Further, the Court would be benefited by the deposition of the witnesses who would be more or less common in both the proceedings. He, therefore, submits that the impugned order passed by the High Court is just and proper and no interference is called for.

19. Submissions made by learned counsel for the parties have received the due consideration of the Court.

20. We have already noticed the facts leading to registration of the FIR and the complaint. We have also noted that while according to the appellants, the accused persons (represented by the second respondent) had trespassed into their residence and had assaulted them, as per the version of the second respondent, the accused persons (represented by the appellants herein) had forcibly entered into their residence and had assaulted him and others. While the time of the incident mentioned in the FIR is from 8:00 PM to 10:30

PM on 01.07.2021, the time mentioned in the complaint is about 10:00 PM of the same day. No doubt, the two alleged incidents occurred in close proximity of each other but the situs of the two incidents are different. The FIR refers to the trespass and assault in the residence of the appellants whereas the complaint refers to trespass and assault in the residence of the second respondent. That apart, we have noticed that neither the complainant i.e. Sameena nor her husband i.e. Momin have been named as accused in the FIR.

21. Sub-section (1) of Section 218 CrPC says that for every distinct offence of which any person is accused, there shall be a separate charge and every such charge shall be tried separately. As per the proviso, where the accused person makes an application in writing and the Magistrate is of the opinion that such person is not likely to be produced, the Magistrate may try together or any number of the charges framed against such person. Therefore, under Section 218(1) CrPC, separate trial in each distinct offence against the same accused is the norm.

22. As per sub-section (1) of Section 219 CrPC, when a person is accused of more offences than one of the same kind committed within a space of 12 months from

the first to the last of such offences, whether in respect of the same person or not, he may be charged with and tried at one trial for the offences but the number of such offences should not exceed three.

23. Similarly, under Section 220(1) CrPC, if in one series of acts so connected together to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence.

24. Sections 221 and 222 CrPC deal with different variants of charges arising out of a single act or a series of acts resulting in such offences. Section 223 CrPC provides that the persons named thereunder may be charged and tried together, such as, persons accused of the same offence committed in the course of the same transaction; persons accused of an offence and persons accused of an abetment or attempt to commit such offence etc.

25. The law relating to consolidation, whether it is a sessions triable case and a complaint case, has been gone into in detail by this Court in *Lakshmanan*. It is not necessary to refer to the various provisions of law and the analysis made by the Bench in

Lakshmanan. **In paragraph 13.3, this Court summed up as under:**

> **(i) Separate trial is the rule under Section 218 Cr.P.C.; a joint trial may be permissible where the offences form part of the same transaction or the conditions in Sections 219-223 Cr.P.C. are satisfied, but even then it is a matter of judicial discretion;**
>
> **(ii) The decision to hold a joint or separate trial must ordinarily be taken at the outset of the proceedings and for cogent reasons;**
>
> **(iii) The two paramount considerations in such decision making are whether a joint trial would cause prejudice to the accused, and whether it would occasion delay or wastage of judicial time.**

26. Finally we note that one is a sessions triable case having serious consequences and the other is a complaint case ordinarily adjudicated by a court placed lower in the hierarchy. In such a situation, we are of the view that clubbing of the two proceedings is really not warranted. The High Court committed an error in interfering with the order passed by the learned Additional Sessions Judge dated 09.09.2025 and directing consolidation.

27. For all the aforesaid reasons, we set aside the impugned order of the High Court dated 30.10.2025 and direct that both the two cases being Sessions Trial No.344 of 2022 and Complaint Case No.5725 of 2021 shall be proceeded with separately before the respective courts in accordance with law.

28. Appeal is accordingly allowed.

29. Pending application(s), if any, shall stand disposed of.

.....J.
(UJJAL BHUYAN)

.....J.
(ATUL S. CHANDURKAR)

NEW DELHI;
September 29th, 2026.
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