

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7220/2026
[Arising out of impugned final judgment and order dated 23-03-2026
in CRLR No. 405/2026 passed by the High Court of Chhatisgarh at
Bilaspur]

YASHWANT KUMAR NAG & ORS.

Petitioner(s)

VERSUS

THE STATE OF CHHATTISGARH & ORS.

Respondent(s)

(FOR ADMISSION

IA No. 122120/2026 - EXEMPTION FROM FILING O.T.)

Date : 28-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA

HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) : Mr. Mohammad Afroz Athar, AOR

For Respondent(s) Ms. Sugandha Jain, Adv.
Mr. Prabodh Kumar, AORUPON hearing the counsel the Court made the following
O R D E R

1. Heard learned counsel, Mr. Mohammad Afroz Athar for the petitioners and learned counsel, Ms. Sugandha Jain learned standing counsel for the respondent-State of Chhattisgarh.
2. The petitioners were charge-sheeted, *inter alia*, for offence punishable under Section 409 Indian Penal Code (for short "IPC"). After taking cognizance, the learned Magistrate committed the matter to the Court of Session. The Sessions Court, by its order dated 26.02.2026 remitted the matter back to the Court of

Magistrate after noticing that the offences were all triable by a Court of Magistrate as per the Schedule attached to the Code of Criminal Procedure, 1973 (for short "Cr.P.C.").

3. The aforesaid order was challenged by the accused by way of a revision before the High Court. It was urged before the High Court that since an offence punishable under Section 409 IPC could result in a punishment of life sentence, which is not imposable by a Court of Magistrate in view of Section 29 of Cr.P.C., the order of committal was not bad in law and therefore, the Sessions Court should not have remitted the matter back to the Court of Magistrate. The High Court however did not accept the aforesaid submissions and by relying upon the Schedule appended to the Code found no error in the order passed by the Court of Session.
4. The submission of learned counsel for the petitioners is that in *Amandeep Singh Saran vs. State of Chhattisgarh* [(2024) 6 SCC 541], this Court observed that Section 26 and the first schedule of Cr.P.C. are controlled by other provisions of Cr.P.C. and therefore, if the Magistrate in exercise of his power under Section 323 Cr.P.C. commits the trial to the Court of Session, the committal order cannot be faulted.
5. We have accorded due consideration to the submissions made.

6. The power under Section 323 of Cr.P.C. is exercisable where there is any inquiry into an offence or trial pending before a Magistrate. The provision reads thus:

"If, in any inquiry into an offence or trial before a Magistrate, it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XVIII shall apply to the commitment so made."

7. In the instant case, admittedly, charges have not yet been framed therefore, the order of committal was passed without there being a trial pending. In such circumstances, considering that under the Schedule the matter is triable by a Court of Magistrate, if the Sessions Court remitted the matter to the Magistrate Court, we do not find any fault in the said order.

8. Accordingly, we find no merit in the petition.

9. The Special Leave Petition is, accordingly, dismissed. However, we make it clear that at a subsequent stage, during trial, it shall be open for the Court of Magistrate to exercise its power under Section 323 Cr.P.C., if required.

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

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)