

**Mamman Khan**

v.

**State of Haryana**

(Criminal Appeal No. 4002 of 2025)

12 September 2025

**[J.B. Pardiwala and R. Mahadevan,\* JJ.]**

**Issue for Consideration**

Issue arose whether the orders of the trial court, as affirmed by the High Court, directing segregation of the appellant's trial from that of the co-accused and requiring the filing of a separate charge sheet solely on the ground that the appellant is a sitting MLA, legally sustainable.

**Headnotes<sup>†</sup>**

**Code of Criminal Procedure, 1973 – ss.219 to 223 – Joint trials – Segregation of trial – Permissibility – Appellant-MLA arrayed as one of the accused person along with others , in connection with large-scale communal violence in the Nuh District – Joint proceedings commenced – However, the trial court directed the police to file a separate charge-sheet against the appellant and consequently, segregated his trial from that of the co-accused – Pursuant thereto, the police filed separate charge sheets against the appellant, and charges were framed – Appellant sought quashing of the order of segregation of his trial – High Court dismissed the petitions, and upheld the segregation – Sustainability:**

**Held:** Order of the trial court directing segregation of the appellant's trial from that of the co-accused, cannot be sustained – No allegation that the acts attributed to the appellant arise from a distinct transaction, or that a joint trial would prejudice the prosecution – On the contrary, the prosecution's own case rests on an overarching conspiracy, and interlinked evidence – Segregation was ordered not on any legally recognized ground such as distinct facts, severable evidence, or demonstrated prejudice but solely on account of the appellant's political office which cannot be justified – Preferential segregation militates against the equality principle enshrined in Art.14 – Only ground recorded was the delay occasioned by the

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non-appearance of certain co-accused – Appellant was regularly before the court – No finding recorded that a joint trial would delay proceedings or cause prejudice to the appellant – Segregation order passed *suo motu* by the trial court, without notice or application, violates the basic principles of procedural fairness inherent in Art.21 – Evidence against the appellant is identical to that against the co-accused – Separate trials would necessarily involve recalling the same witnesses, resulting in duplication, delay, and the risk of inconsistent findings – High Court confined itself to the discretionary language of s.223 without evaluating whether the factual circumstances justified such segregation – Thus, the segregation of the appellant's trial, without any legally recognized justification, unsustainable in law and violative of the appellant's right to a fair trial u/Art.21 – No person, whether a sitting MLA or an ordinary citizen can be subjected to procedural disadvantage or preferential treatment without express legal justification – While expeditious disposal of cases involving legislators is undoubtedly desirable, such administrative prioritization cannot override the procedural safeguards guaranteed under the Cr.P.C. or the constitutional mandate of equality – Segregating the appellant's trial solely on account of his political office, in the absence of any legal or factual necessity, amounts to arbitrary classification and undermines the integrity of the criminal justice process – Impugned orders passed by the trial Court, as affirmed by the High Court set aside – Direction to file a separate charge sheet against the appellant and the segregation of his trial quashed – Matter remitted to the trial court – Constitution of India – Art.14, 21. [Paras 14, 15, 16.1-24]

### Case Law Cited

*Ashwini Kumar Upadhyay v. Union of India* [2023] 14 SCR 266 : (2024) 1 SCC 185; *Nasib Singh v. State*, 2021 OnLine SC 94 – held inapplicable.

*R. Dinesh Kumar v. State* [2015] 5 SCR 605 : (2015) 7 SCC 497; *State of A.P. v. Cheemalapati Ganeswara Rao* [1964] 3 SCR 297 : AIR 1963 SC 1850 : (1963) 2 Cri LJ 671; *Chandra Bhal v. State of U.P.* (1971) 3 SCC 983 : 1972 SCC (Cri) 290 – referred to.

### List of Acts

Bharatiya Nagarik Suraksha Sanhita, 2023; Penal Code, 1860; Code of Criminal Procedure, 1973; Constitution of India.

**Mamman Khan v. State of Haryana****List of Keywords**

Segregation; Filing of separate charge sheet; Sitting MLA; Joint trials; Segregation of trial; Large-scale communal violence in the Nuh District; Joint proceedings; Separate charge-sheet; Overarching conspiracy; Interlinked evidence; Expeditious disposal of criminal cases involving MPs/MLAs; Principal District Judge; Non-appearance of certain co-accused; Fair trial; Art.21 of the Constitution; Principles of procedural fairness; Separate trial.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 4002 of 2025

From the Judgment and Order dated 12.12.2024 of the High Court of Punjab & Haryana at Chandigarh in CRMM No. 61515 of 2024

With

Criminal Appeal No. 4003 of 2025

**Appearances for Parties**

*Advs. for the Appellant:*

Dr. S Muralidhar, Sr. Adv., Prasanna S., Ms. Rupali Samuel, MA Karthik, Ms. Ninni Susan Thomas, Ms. Pallak Bhagat.

*Advs. for the Respondent:*

Deepak Thukral, A.A.G., Akshay Amritanshu, Ms. Pragya Upadhyay, Ms. Drishti Saraf, Nikhil Goyal, Ravi Vashisht.

**Judgment / Order of the Supreme Court****Judgment**

**R. Mahadevan, J.**

Leave granted in both the SLPs.

2. These appeals have been preferred against the common judgment and order dated 12.12.2024 passed by the High Court of Punjab and Haryana at Chandigarh<sup>1</sup>, whereby the High Court dismissed the

<sup>1</sup> Hereinafter referred to as "the High Court"

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appellant's petitions bearing CRM-M-Nos. 61515 and 61516 of 2024, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Criminal Procedure Code, 1973<sup>2</sup>) seeking to quash the orders dated 02.09.2024 and 28.08.2024 passed by the Additional Sessions Judge, Nuh<sup>3</sup>. By the said orders, the trial Court directed the prosecution to file a separate charge sheet against the appellant and ordered segregation of his trial from that of the co-accused in respect of:

- FIR No.149 dated 01.08.2023 registered under sections 148, 149, 153A, 379A, 395, 397, 427, 436, 506, 201, 120B, 107 of the Indian Penal Code, 1860<sup>4</sup>, and
- FIR No.150 dated 01.08.2023 registered under sections 148, 149, 153A, 379A, 395, 427, 436, 506, 201, 120B, 107 and 180 IPC, respectively,

both registered at Police Station Nagina, District Nuh.

3. The factual matrix of the present cases is as follows:
  - 3.1. The appellant is a sitting Member of the Legislative Assembly (MLA) from Ferozepur Jhirka Constituency in Haryana and has been arrayed as one of the accused in FIR Nos.149 and 150 both dated 01.08.2023 registered at Police Station Nagina, District Nuh, in connection with large-scale communal violence that took place in the Nuh District on 31.07.2023.
  - 3.2. During the course of investigation, multiple individuals were named as accused, and joint proceedings commenced before the trial Court. However, by orders dated 28.08.2024 and 02.09.2024, the trial Court directed the concerned Station House Officer to file a separate charge-sheet against the appellant and consequently, segregated his trial from that of the co-accused.
  - 3.3. Pursuant to the aforesaid directions, the police filed separate charge sheets against the appellant, charges were framed on 25.11.2024, and the prosecution commenced evidence, with some witnesses already examined.

2 For short, "Cr.P.C"

3 For short, "the trial Court"

4 For short, "IPC"

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- 3.4. Aggrieved by the segregation of his trial, the appellant filed CRM-M -Nos.61515 and 61516 of 2024 before the High Court for quashing the aforesaid orders. However, by a common judgment dated 12.12.2024, the High Court dismissed both petitions, and upheld the segregation.
- 3.5. Hence, the appellant has come forward with the present appeals before this Court.
4. Assailing the impugned judgment, the learned Senior Counsel for the appellant submitted that the appellant, a sitting MLA, has been falsely implicated in the FIRs concerning the communal violence in Nuh District on 31.07.2023. The investigation itself revealed that the appellant was not present at the location of the incident, and that there is no material evidence linking him to the alleged offences. Nevertheless, the relief sought herein is confined only to setting aside the segregation of his trial from that of the co-accused.
  - 4.1. It was contended that the trial Court directed segregation of the appellant's trial solely on the ground that he is a sitting MLA, which reasoning is arbitrary, legally untenable, and amounts to a miscarriage of justice. Section 223(d) Cr.P.C. provides that persons accused of the same offence committed in the course of the same transaction shall be tried jointly. Joint trials are the rule, and separate trials are permissible only in exceptional circumstances expressly contemplated by law. In the present case, the alleged offences, including rioting and conspiracy under Section 120B IPC, arise from the same issue; hence, it is impermissible to try the alleged conspirator separately from the principal perpetrators.
  - 4.2. The learned Senior Counsel further submitted that the trial Court placed reliance on the directions issued by this Court in **Ashwini Kumar Upadhyay v. Union of India**<sup>5</sup>, to justify the segregation. However, those directions merely call for prioritization of trials involving MPs/MLAs for expeditious disposal and do not permit deviation from the statutory scheme, nor authorize separate charge-sheets or trials solely on the basis of accused's political status.

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- 4.3. Reference was made to the decisions in *Nasib Singh v. State*<sup>6</sup>, *State of A.P. v. Cheemalapati Ganeswara Rao*<sup>7</sup>, and *R. Dinesh Kumar v. State*<sup>8</sup>, which establish that when offences form part of the same transaction, a joint trial is mandatory, and that multiplicity of trials arising from the same incident must be avoided as it causes injustice, prejudice, and delay.
- 4.4. It was further urged that the trial Court exceeded its jurisdiction by directing the police to file a separate charge-sheet, as the discretion to file charge-sheets lies exclusively with the investigating agency. Even when separate charge-sheets are filed, if the offences arise out of the same transaction, they must necessarily be tried jointly. Sections 218 – 223 Cr.P.C make it clear that “distinct” offences refer to unconnected or independent acts. In the present case, the alleged conspiracy links the appellant with the co-accused, making separate trials legally impermissible.
- 4.5. It was argued that segregation would enable the prosecution to tailor its evidence based on prior cross-examination, thereby causing serious prejudice to the appellant as well as the co-accused. It would also expose the appellant to multiple proceedings for the same transaction, in violation of Article 20(2) of the Constitution (protection against double jeopardy) and the fundamental right to a fair trial under Article 21.
- 4.6. Finally, it was submitted that neither delay in the appearance of co-accused nor the desire for expeditious trial provides lawful justification for segregation. The Code of Criminal Procedure permits separate trials only in exceptional circumstances, such as the absconding of co-accused or the existence of distinct transactions – conditions that are absent in the present case.
- 4.7. On these grounds, it was prayed that the impugned orders of the trial Court and the High Court be set aside, and a direction be issued for a joint trial of the appellant along with the co-accused, in accordance with law.

6 2021 OnLine SC 94

7 AIR 1963 SC 1850

8 (2015) 7 SCC 497

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5. Per contra, the learned counsel for the respondent opposed the appeals and submitted that the appellant challenges the legality of the orders dated 28.08.2024 and 02.09.2024 passed by the trial Court in Session Cases arising out of FIR Nos.150 and 149 of 2023, respectively. By these orders, the trial Court directed the Station House Officer to file a separate charge-sheet against the appellant, who is a sitting MLA, and accordingly, segregated his trial from that of the co-accused. In compliance, separate charge sheets were filed against the appellant, charges were framed on 25.11.2024, and the prosecution has already commenced evidence with several witnesses having been examined.
  - 5.1. It was contended that the segregation of the appellant's trial was necessitated to ensure judicial efficiency, as the presence of 43 accused in FIR No.149 and 28 accused in FIR No.150 had rendered the conduct of a joint trial logically and procedurally cumbersome. Repeated non-appearance of certain co-accused had already resulted in considerable delay.
  - 5.2. Learned counsel submitted that the segregation was intended to prevent further delay in proceedings and, in fact, facilitates early disposal. The measure does not, in any manner, prejudice the appellant's rights.
  - 5.3. It was further argued that under Section 218 Cr.P.C., the general rule is that each offence shall be tried separately. While Section 223 enables joint trials, it is couched in discretionary terms and must be applied only in appropriate cases depending on the circumstances.
  - 5.4. Reliance was placed on ***Nasib Singh v. State* (supra)**, where this Court held that the test for permitting a joint trial includes consideration of whether it would prejudice the accused or cause delay in the proceedings. In the present case, the appellant failed to establish any real or specific prejudice arising out of the separate trial.
  - 5.5. Further reliance was placed on ***Ashwini Kumar Upadhyay*** wherein, this Court directed all courts to prioritize expeditious disposal of criminal cases involving elected public representatives. The action of the trial Court is in consonance with these directions and is aimed at ensuring speedy adjudication.

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- 5.6. It was submitted that the right to a speedy trial is an essential facet of Article 21 of the Constitution. The segregation of the appellant's trial subserves this constitutional guarantee by enabling timely progress of the case.
- 5.7. On these premises, the learned counsel prayed for dismissal of the appeals and for upholding of the impugned orders directing segregation of the appellant's trial from that of the co-accused, submitting that the same are legally sound, procedurally proper, and constitutionally justified.
6. We have considered the submissions advanced by the learned senior counsel for the appellant and learned counsel for the respondent and have carefully perused the materials available on record.
  - 6.1. On 19.12.2024, when SLP (Crl.) No. 18089 of 2024 was taken up for consideration, this Court granted an order of stay of further proceedings in S.C. No. 478 of 2024 pending before the Court of Additional Sessions Judge (Nuh), Haryana. Subsequently, by order dated 31.01.2025 in SLP (Crl.) Diary No. 58851 of 2024, this Court granted an order of stay of further proceedings in S.C. No. 485 / 2024.
7. The principal issue that arises for determination in these appeals is whether the orders of the trial Court, as affirmed by the High Court, directing segregation of the appellant's trial from that of the co-accused and requiring the filing of a separate charge sheet solely on the ground that the appellant is a sitting MLA, are legally sustainable.
8. Apparently, FIR Nos. 149 and 150 of 2023, were registered in the aftermath of large-scale communal violence in the Nuh district of Haryana, which resulted in serious law and order disturbances, loss of lives, and extensive damage to both public and private property. These FIRs named several individuals, including the present appellant, and alleged the commission of offences such as rioting, dacoity, mischief by fire, and criminal intimidation.
9. The prosecution case proceeds on the basis of an overarching conspiracy said to involve all the accused persons. The charge sheet reflects a consolidated investigative approach, founded upon common evidence, such as call detail records, electronic communications, video footage, witness statements, and forensic reports. It is undisputed that the prosecution relies upon largely common witnesses and interlinked evidence against all the accused.

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10. Despite the unified nature of the allegations, the trial Court ordered segregation of the appellant's trial on the premise that proceedings were being delayed due to the repeated non-appearance of certain co-accused. The court also noted that, since the appellant is a sitting MLA, his trial needed to be taken up on a day-to-day basis in view of the directions issued by this Court in ***Ashwini Kumar Upadhyay v. Union of India*** (supra), concerning expeditious disposal of cases against legislators. Consequently, by orders dated 28.08.2024 and 02.09.2024, the trial Court directed the police to file a separate charge sheet against the appellant. Agrieved thereby, the appellant preferred Criminal Miscellaneous Petitions seeking quashing of the proceedings, which came to be dismissed by the High Court.
11. In the present appeals, the challenge has been confined to the segregation of the appellant's trial. The appellant submits that the offences alleged against him arise out of the same transaction as those involving the co-accused, and hence, by virtue of Section 223 Cr.P.C., a joint trial ought to have been conducted. It is not the prosecution's case that the acts attributed to the appellant are distinct or severable. According to the appellant, conducting a separate trial would result in serious prejudice to him and impair his right to a fair trial.
  - 11.1. On the other hand, the respondent contends that segregation was necessitated by the mandate of this Court in ***Ashwini Kumar Upadhyay*** (supra), which requires expeditious disposal of criminal cases involving elected representatives. It is further stated that the direction was purely procedural and intended to obviate delay caused by the absconcence of certain co-accused, while ensuring that the trial of the appellant proceeds in a timely manner.
12. Before addressing the question of the legal permissibility of such segregation, it would be apposite to extract the relevant portions of the trial Court's orders dated 28.08.2024 and 02.09.2024, as affirmed by the High Court, which read as under:

Order dated 28.08.2024

“....

*In the present case, one of the accused namely Sh. Mamman Khan is MLA of Haryana. The present case is*

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*not progressing on account of absence of one accused or the other. On the other hand, as per direction issued by Hon'ble Supreme Court, the cases of MPs/MLAs are to be decided on priority basis by taking up the case on day to day basis. The case has been identified for current action plan and therefore, in the interest of justice and fitness of things, case of accused Mamman Khan is to be tried separately.*

*The concerned Ahlmaid of this Court is directed to issue notice to SHO of Police Station Nagina today itself through Naib Court of this Court with direction to prepare and file a separate challan of accused Mamman Khan.”*

Order dated 02.09.2024

“...

*One of the accused namely Mamman Khan is sitting MLA of Haryana and therefore, his case is to be taken up on day to day basis as per instructions issued by Hon'ble Supreme Court from time to time. The case is not proceeding further as there are large number of accused and some of them are absent and other seek adjournment on one pretext or the other.*

*Resultantly, notice be issued to SHO of Police Station Nagina to file separate challan of accused Mamman Khan on the next date of hearing.”*

- 12.1. A plain reading of the above orders makes it clear that the segregation was directed solely on account of the appellant's status as an MLA, so as to facilitate a day-to-day trial in purported compliance with the directions of this Court in *Ashwini Kumar Upadhyay* (supra). Significantly, the record discloses that no notice was issued to the appellant prior to passing of the segregation order, nor was there any application filed by the prosecution seeking such a course of action. The segregation was thus ordered *suo motu*, without affording the appellant an opportunity of hearing.
13. The statutory scheme under the Code of Criminal Procedure, 1973, is clear. Sections 218 to 223 lay down the framework governing the

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joinder and separation of charges and trials. Section 218 embodies the general rule that each distinct offence shall be tried separately. However, the Code carves out specific exceptions to this rule in Sections 219 to 223, where joint trials are permissible in the interests of justice.

13.1. In particular, Section 223(d) provides that persons accused of different offences committed in the course of the same transaction may be charged and tried together. The legislative intent underlying these provisions is three-fold: (i)to prevent multiplicity of proceedings, (ii) to avoid the risk of conflicting judgments on the same evidence, and (iii) to promote judicial economy while ensuring fairness to the accused. For ease of reference, the relevant provisions are set out below:

***"218. Separate charges for distinct offences –(1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:***

*Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.*

*(2) Nothing in sub-section (1) shall affect the operation of the provisions of Sections 219, 220, 221 and 223.*

***219. Three offences of same kind within year may be charged together –***

*(1) When a person is accused of more offences than one of the same kind committed within the space of twelve 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, any number of them not exceeding three.*

*(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local laws:*

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*Provided that, for the purposes of this section, an offence punishable under Section 379 of the Indian Penal Code (45 of 1860) shall be deemed to be an offence of the same kind as an offence punishable under Section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.*

**220. Trial for more than one offence –**

*(1) If, in one series of acts so connected together as 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.*

*(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of Section 212 or in sub-section (1) of Section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.*

*(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.*

*(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.*

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(5) Nothing contained in this section shall affect Section 71 of the Indian Penal Code (45 of 1860).

**221.** Where it is doubtful what offence has been committed –

(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

**222.** When offence proved included in offence charged –

(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the

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*conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.*

**223. What persons may be charged jointly –** *The following persons may be charged and tried together, namely:*

- (a) *Persons accused of the same offence committed in the course of the same transaction;*
- (b) *Persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;*
- (c) *Persons accused of more than one offence of the same kind, within the meaning of Section 219 committed by them jointly within the period of twelve months;*
- (d) *Persons accused of different offences committed in the course of the same transaction;*
- (e) *persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;*
- (f) *persons accused of offences under Sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence;*
- (g) *persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:*

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*Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate [or Court of Session] may, if such persons by an application in writing, so desire, and if he [or it] is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together."*

14. In the present case, there is no allegation that the acts attributed to the appellant arise from a distinct transaction, or that a joint trial would prejudice the prosecution. On the contrary, the prosecution's own case rests on an overarching conspiracy, and interlinked evidence. Segregation was ordered not on any legally recognized ground – such as distinct facts, severable evidence, or demonstrated prejudice – but solely on account of the appellant's political office, by misapplying the directions in *Ashwini Kumar Upadhyay* (supra).
15. At the outset, the reliance placed by the trial Court and the High Court on *Ashwini Kumar Upadhyay* (supra) appears to be misplaced. As already noticed earlier, the trial Court, while directing segregation, categorically recorded that in terms of this Court's directions, cases of MPs/MLAs are to be prioritised and taken up on a day-to-day basis. It is no doubt correct that the said judgment emphasises the need for expeditious disposal of criminal cases involving MPs / MLAs. However, it lays down that it is the responsibility of the Principal District Judge to allocate, as considered appropriate and effective, criminal cases involving MPs and MLAs to the designated courts. Further, they do not confer any procedural disadvantage upon an accused legislator, nor do they authorise deviation from the mandatory legal norms governing joint trials.
16. The principles governing the conduct of joint or separate trials have been elaborately dealt with by this Court in ***Nasib Singh v. State of Punjab*** (supra), after a survey of earlier decisions. The relevant paragraphs are extracted below:

*"B. Power to direct joint trial*

...

*35. Chapter 17 CrPC, 1973 deals with "the charge". Part A comprising of Sections 211 to 217 is titled "form of*

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*charges". Part B comprising of Sections 218 to 224 is titled "joinder of charges".*

...

*43. The Bench held that holding a separate trial is the rule and a joint trial is the exception. However, in case the accused persons commit different offences forming a part of the same transaction, a joint trial would be the rule unless it is proved that joint trial would cause difficulty: (Cheemalapati Ganeswara Rao case<sup>9</sup>, AIR pp. 1861-862, para 30)*

*"30. ... No doubt, as has been rightly pointed out in this case, separate trial is the normal rule and joint trial is an exception. But while this principle is easy to appreciate and follow where one person alone is the accused and the interaction or intervention of the acts of more persons than one does not come in, it would where the same act is committed by several persons, be not only inconvenient but injudicious to try all the several persons separately. This would lead to unnecessary multiplicity of trials involving avoidable inconvenience to the witnesses and avoidable expenditure of public time and money. No corresponding advantage can be gained by the accused persons by following the procedure of separate trials. Where, however, several offences are alleged to have been committed by several accused persons it may be more reasonable to follow the normal rule of separate trials. But here, again, if those offences are alleged not to be wholly unconnected but as forming part of the same transaction the only consideration that will justify separate trials would be the embarrassment or difficulty caused to the accused persons in defending themselves."*

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<sup>9</sup> State of A.P. v. Cheemalapati Ganeswara Rao, AIR 1963 SC 1850 : (1963) 2 Cri LJ 671

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*48. The Court in Chandra Bhal case<sup>10</sup> observed that a separate trial on the charge of causing the homicidal death of one 'L' was not contrary to law even if a joint trial of this offence together with others was permissible. The Court also observed that this matter was required to be considered by the trial court at the beginning of the trial and is not to be determined on the basis of the result of the trial. The Court further observed that its attention was not drawn to any material on record suggesting that prejudice had been caused to the appellant as a result of a separate trial. It was finally held that the plea of self defence and the argument that both the offences were committed during the course of the same transaction was rejected by both the courts below, and that the court would not interfere with concurrent findings of fact.*

*49. The judgment in Chandra Bhal case therefore lays down three significant principles on joint trials:*

*49.1. A separate trial is not contrary to law even if a joint trial for the offences along with other offences is permissible.*

*49.2. The possibility of a joint trial has to be decided at the beginning of the trial and not on the basis of the result of the trial.*

*49.3. The true test is whether any prejudice has been sustained as a result of a separate trial. In other words, a retrial with a direction of a joint trial would be ordered only if there is a failure of justice.*

*50. In Essar Teleholdings Ltd. v. CBI<sup>11</sup>, R.F. Nariman, J., speaking for a three-Judge Bench reiterated the principles which have been enunciated in Chandra Bhal. Further, it was held that even if the conditions stipulated in Section 223 CrPC to conduct a joint trial have been fulfilled, it may not be desirous to direct a joint trial if a joint trial would (i) prolong the trial; (ii) cause unnecessary wastage of judicial time; and (iii) confuse or cause prejudice to the accused, who had taken part only in some minor offence.*

10 Chandra Bhal v. State of U.P., (1971) 3 SCC 983 : 1972 SCC (Cri) 290

11 (2015) 10 SCC 562 : (2016) 1 SCC (Cri) 1

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*51. From the decisions of this Court on joint trial and separate trials, the following principles can be formulated:*

*51.1. Section 218 provides that separate trials shall be conducted for distinct offences alleged to be committed by a person. Sections 219-221 provide exceptions to this general rule. If a person falls under these exceptions, then a joint trial for the offences which a person is charged with may be conducted. Similarly, under Section 223, a joint trial may be held for persons charged with different offences if any of the clauses in the provision are separately or on a combination satisfied.*

*51.2. While applying the principles enunciated in Sections 218-223 on conducting joint and separate trials, the trial court should apply a two-pronged test, namely, (i) whether conducting a joint/separate trial will prejudice the defence of the accused; and/or (ii) whether conducting a joint/ separate trial would cause judicial delay.*

*51.3. The possibility of conducting a joint trial will have to be determined at the beginning of the trial and not after the trial based on the result of the trial. The appellate court may determine the validity of the argument that there ought to have been a separate/joint trial only based on whether the trial had prejudiced the right of accused or the prosecutrix.*

*51.4. Since the provisions which engraft an exception use the phrase “may” with reference to conducting a joint trial, a separate trial is usually not contrary to law even if a joint trial could be conducted, unless proven to cause a miscarriage of justice.*

*51.5. A conviction or acquittal of the accused cannot be set aside on the mere ground that there was a possibility of a joint or a separate trial. To set aside the order of conviction or acquittal, it must be proved that the rights of the parties were prejudiced because of the joint or separate trial, as the case may be.”*

From the above, the following propositions stand reiterated:

- (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

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- 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;
  - (iv) Evidence recorded in one trial cannot be imported into another, which may give rise to serious procedural complications if the trial is bifurcated; and
  - (v) An order of conviction or acquittal cannot be set aside merely because a joint or separate trial was possible; interference is justified only where prejudice or miscarriage of justice is shown.
- 16.1. Applying the aforesaid principles, we are of the considered view that the order of the trial Court directing segregation of the appellant's trial from that of the co-accused, cannot be sustained. The only ground recorded was the delay occasioned by the non-appearance of certain co-accused. The proper course in such a situation would have been to segregate the absconding or defaulting accused, not the appellant who was regularly before the court. By doing so, the trial court inverted the settled principle and thereby committed a manifest error. No finding was recorded that a joint trial would delay proceedings or cause prejudice to the appellant.
- 16.2. Reliance placed by the respondents on *Nasib Singh* case is misconceived. That case concerned consolidation of two distinct FIRs arising from unrelated acts; it does not support the arbitrary splitting of a joint trial. Indeed, it reinforces that joint trials are not only permissible but preferable where offences arise from the same transaction and evidence is common, provided no demonstrable prejudice is shown.
17. This Court has consistently held that a fair trial forms part of the guarantee under Article 21. Departure from established legal procedure – particularly without hearing the affected party – constitutes a serious constitutional infraction. The segregation order passed *suo motu* by the trial court falls short of these requirements. A unilateral order for a separate charge sheet and segregated trial,

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passed without notice or application, violates the basic principles of procedural fairness inherent in Article 21.

18. The contention that the segregation order was passed in the presence of the appellant's counsel is equally untenable. Mere physical presence of counsel cannot be equated with a meaningful opportunity of hearing. Natural justice requires that the party likely to be affected by an order must have prior notice and a fair opportunity to present objections. In the absence of any indication that segregation was under consideration, the requirement of a fair hearing was not satisfied.
19. It is true that pursuant to the segregation order, separate charge sheets were filed, charges framed against the appellant, and prosecution evidence has commenced. However, mere progress of proceedings cannot cure the inherent illegality in the manner in which segregation was ordered. Procedural fairness and statutory compliance cannot be sacrificed for administrative convenience or retrospective justification. Expediency must operate within the bounds of fairness.
20. We also find that the trial court exceeded its jurisdiction in directing the police to file a separate charge-sheet against the appellant. The discretion to file a charge-sheet lies solely with the investigating agency. Even where multiple charge-sheets are filed, if the offences arise out of the same transaction, they must be tried together.
21. Most importantly, the appellant's status as a sitting MLA cannot, by itself, justify a separate trial. All accused stand equal before the law, and preferential segregation militates against the equality principle enshrined in Article 14. While the right to speedy trial is an essential facet of Article 21, it cannot be secured at the cost of fairness. *Ashwini Kumar Upadhyay* (supra) emphasizes expedition, but nowhere intends that such expedition be achieved by compromising the fundamental rights of the accused.
22. In the present case, the evidence against the appellant is identical to that against the co-accused. Separate trials would necessarily involve recalling the same witnesses, resulting in duplication, delay, and the risk of inconsistent findings. The High Court, in affirming the segregation order, failed to appreciate these consequences and confined itself to the discretionary language of section 223 Cr.P.C without evaluating whether the factual circumstances justified such segregation. Therefore, we hold that the segregation of the appellant's trial, without any legally recognized justification, is unsustainable in law and violative of the appellant's right to a fair trial under Article 21.

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23. At this juncture, we deem it necessary to reiterate the foundational constitutional principle enshrined in Article 14 of the Constitution, which guarantees that all persons are equal before the law and entitled to equal protection of the laws. This principle extends beyond mere formal equality and requires that legal procedures be applied fairly and uniformly, irrespective of an individual's public position or status. The right to equal access to justice is an essential facet of the rule of law, and no person – whether a sitting MLA or an ordinary citizen – can be subjected to procedural disadvantage or preferential treatment without express legal justification.
  - 23.1. While expeditious disposal of cases involving legislators is undoubtedly desirable, such administrative prioritization cannot override the procedural safeguards guaranteed under the Cr.P.C. or the constitutional mandate of equality. Segregating the appellant's trial solely on account of his political office, in the absence of any legal or factual necessity, amounts to arbitrary classification and undermines the integrity of the criminal justice process.
24. In view of the foregoing, the impugned orders dated 28.08.2024 and 02.09.2024 passed by the trial Court, as affirmed by the High Court in its judgment dated 12.12.2024 are hereby set aside. The direction to file a separate charge sheet against the appellant and the consequential segregation of his trial from that of the co-accused are quashed.
25. The matter is remitted to the trial Court with a direction to conduct a joint trial of the appellant along with the co-accused, in accordance with law. The trial Court shall be at liberty to regulate the schedule of proceedings to ensure expeditious disposal, but shall do so, without compromising procedural safeguards and only after hearing all concerned parties.
26. Accordingly, both the criminal appeals are disposed of.
27. Pending application(s), if any, stand disposed of.

*Result of the case:* Appeals disposed of.

<sup>†</sup>Headnotes prepared by: Nidhi Jain