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IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
JASDAN.

AT : JASDAN.

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CRIMINAL CASE No.92 OF 2022.

COMPLAINANT :-

STATE OF GUJARAT,  
(Notice to be served through APP)

VERSUS

ACCUSED :-

DHANJIBHAI VIRAMJIBHAI DUMADIYA,  
Village - Kalasar,  
Taluka, JASDAN  
DIST- RAJKOT

APPEARANCES :-

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\* MRS. K.M.Chaudhari : L.APP For State of Gujarat

\* Mr. V.V.Hathvani : L.A For Accused

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:: O R D E R ::

1. The present case is pertaining to offence punishable under section 323, 324 of Indian Penal Code and Sec.135 of Gujarat Police Act. On summons accused remained

present before this court, wherein Ld. Advocate for the accused drawn attention of this court by submitting application below Ex.9, that cross case arised of same incident having Criminal case No.466 of 2020, having sessions triable sections committed to Hon'ble Sessions Court Rajkot by Judicial Magistrate First Class, Jasdan and it has registered with Sessions Case No.47 of 2020. It has requested that when two cases are arised out from the same incidence, it is to be tried by the same Court for the administration of Justice and so this cross case is required to be transferred to Hon'ble Sessions Court, Rajkot.

2. On Inquiring from the Ld. APP Smt. K.M.Choudhry, she submitted that one FIR registered against Baldev Lakhmanbhai Mevasiya, who is complainant in the case on hand, for the offences Sec.302 and 324 of IPC and committed to Hon'ble Sessions Court, Rajkot.
3. **After** Hearing Ld. Advocate for the accused and Ld. APP and also perusing record of the case, it appears that both the case i.e. counter case also arised of same incidence dated 13.04.2020 and cross complaint registered against both the parties. Looking to the provision of Sec.323 of Code of Criminal Procedure, It

says. S.323 Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed If, in any inquiry into an offence or a 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 herein before contained [and thereupon the provision of Chapter XVIII shall apply to the commitment so made].The provision clearly shows that at any point of time if it appears to the magistrate that case is to be tried by the court of sessions, in that case case is to be committed to the sessions court for trial. The case on hand is also of such a nature where the above provision attract.

5. In NATHI LAL V. STATE OF U.P reported in 1990 SCC 145, The Hon'ble Apex Court observed "*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. So while applying above ratio it is utmost necessary that both the cases tried together by one court and So In the facts and circumstances as discussed above when in the case on hand there is necessary that present case is to be committed to sessions court and so following order is passed.

**:: O R D E R ::**

1. The Present Criminal case No.92 of 2022 is order to commit to the Hon'ble Sessions Court, Rajkot under sec.323 of Code of Criminal Procedure. Let all the record of the

case be sent to Hon'ble Sessions  
Court, Rajkot at the earliest.

***Signed and pronounced in the open Court today on  
this 23<sup>rd</sup> day of March,2022 at Jasdán Dist-  
Rajkot.***

Date : 23.03.2022.

Place : Jasdán.

**[Pawankumar N Navin]**

**(GJ-00758)**

Addl.Chief Judicial Magistrate,  
JASDAN.