

IN THE COURT OF SESSIONS JUDGE, WASHIM

Order Below Exh. 53
(Dated 28/02/2025)

- 1) The present application preferred by the accused for transfer of Sessions Trial No. 83/2021, State ..vs.. Sopan and ors. and Sessions Trial No. 94/2021, State ..vs.. Ashru and ors. to one and the same Court for disposal according to law on the ground that both cases are counter cases of each other.
- 2) The prosecution objected the application on the count that both cases are not outcome of one and same incident.
- 3) The Superintendent, Judicial, District Court, Washim also filed report vide Exh. 62 whereby it is cleared that ST No. 94/2021, State ..vs.. Ashru and ors. and ST No. 83/2021, State ..vs.. Sopan and ors., the witnesses, panchas are one and the same.
- 4) Heard Adv. Mr. S. V. More along-with Adv. Mr. U. A. Deshmukh for the petitioner and APP Mr. A. R. Vyawahare for the State at length.
- 5) On perusal of the transfer application, say of prosecution given in margin of first page of the present application along-with oral submissions of both sides advocates, following points arise for the consideration of the Court, on which the Court answered thereon with the reasons as follows.

Sr. No.	Points	Findings
1)	Whether the petitioner proves the case for transfer of ST No. 83/2021, State ..vs.. Sopan and ors. and ST No. 94/2021, State ..vs.. Ashru and ors. in one and the same Court for final	In the Negative.

	disposal on the count that both cases are counter cases of each other ?	
2)	What order ?	Rejected, as per final order.

REASONS

As to Point No. 1 -

6) The accused/applicants came with the case that the incident involving in ST No. 83/2021 and ST No. 94/2021 which is pending on the file of 2nd Additional Sessions Judge, Washim involving same incident with counter allegations against each other. So also, the place, time are one and the same in both incidents.

7) On perusal of FIR of crime No. 45/2020 of Risod police station, it is observed that the informant Shivnarayan Kisan Dhawade made allegations that on 19/01/2020, at about 9.30 am, when he was present at his grocery shop and dairy at Chinchambhabhar Bus Stand, at that time Dilip Sanap visited the shop, due to which the informant asked him about the abusing made to his wife and at that time, Dilip started abusing and called other relatives including Namdeo Sanap, Dnyaneshwar Sanap, Sopan Sanap, Sudhakar Sanap and then after, Shivnarayan went to Gajanan Kisan Dhawade and at that time they entered in the shop with iron Tommy, sticks and assaulted to Gajanan Dhawade and informant on head, back and also assaulted to Santosh and therefore, he filed report.

8) On perusal of FIR statement in crime No. 46/2020 of Risod police station on which basis ST No. 94/2021 was filed, it is observed that the informant Dilip Namdeorao Sanap made allegations that on 19/01/2020, at

about 9.30 am to 10.00 am, when he visited Saloon of Punjab Sakhare situated at Bus Stand of Chinchambhabhar and seated in hotel of Pratap Sanap, at that time, Shivnarayan Dhawade, Gajanan Dhawade, Ashru Dhawade, Santosh Dhawade, Rama Dhawade came on the spot in hotel along-with iron Tommy, iron pipes and assaulted to the informant on his chest, stomach, waist, head due to which he sustained bleeding injury and therefore, he filed report.

9) On perusal of both FIR statements, it is observed that both parties made allegations against each other and made allegations of assault at about 9.30 am, but Shivnarayan claimed spot of grocery shop of Shivranarayan while Dilip claimed in the hotel of Pratap Sanap, assault to Shivnarayan Dhawade and his relatives at the hands of accused, Ashru and others.

10) On perusal of spot panchanama in ST No. 83/2021, it is observed that there is no reference of shop of Shivnarayan Dhawade. No doubt, hand made map of the spot disclosed hotel and reference of one shop, but it is not cleared whether the said shop is of Shivnarayan Dhawade or not. Similarly, the said shop is of hair cutting saloon owned by Punjab Sakhare is not cleared or other shop is not cleared.

11) No doubt, there are counter allegations of each parties against each other in both FIRs. The spot of both incidents are different and it is not the case of the petitioner that during course of alleged incidents, both i.e. injured and assaulter went up to the another spot, then these cases can not be treated as counter cases of each other.

12) In order to constitute counter case, the petitioner required to show

that the spot of both alleged incidents is one and the same, time of incident is same, but involving counter allegations of each other in the present case. In the case in hand, there is allegations against each other made by informant against accused, but the charge-sheet of the present case or copy of FIR bearing crime No. 46/2020 of Risod police station does not show the spot of both incidents are one and the same because one shop of grocery while another shop is hotel of Pratap Sanap. So that, the Court hereby conclude that the petitioner failed to prove that both the alleged incidents involved in both cases are counter incidents of each other and there is likeliness of controversial judgments in both cases decided by two different Courts. **Hence, the Court answered point No. 1 in the negative.**

As to Point No. 2 :-

13) As the Court concluded that applicant/petitioner failed to prove the case for transfer of ST No. 83/2021, State ..vs.. Sopan and ors. and ST No. 94/2021, State ..vs.. Ashru and ors. in one and the same Court for final disposal on the count that both cases are counter cases of each other, then the application deserves for rejection. Hence, the order -

ORDER

- 1) The application at Exh. 53 is hereby rejected.
- 2) Accordingly, the application stand disposed of.

Washim.
Date: 28/02/2025.

(S. V. Hande)
Sessions Judge, Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word, as per the original judgment/order.

Name of Stenographer :- A. W. Ajmire, Stenographer (Grade-II)

Name of Court :- Principal District & Sessions Judge,
Washim, Dist. Washim.

Date of Judgment/ Order :- 28/02/2025

Judgment/Order signed by :- 28/02/2025
the Presiding Officer on

Judgment/Order uploaded on :- 03/03/2025