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ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Crl. Transfer Application No.S-91 of 2016

DATE OF
HEARING

12.06.2017.

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objections.
2. For orders on M. A. No.4348/16.
3. For Katcha Peshi.
5. For orders on M. A. No.4349/16.

Mr. Mohammad Ashique Dhamraho, advocate for applicant.

Mr. Mohammad Afzal Jagirani, advocate for respondent No.6.

Mr. Sardar Ali Shah, APG.

By means of this criminal transfer application under Section 526, Cr.P.C, the applicant seeks transfer of Sessions Cases No.297/2016 (re-State v. Mohammad Hanif Magsi & others) arisen out of Crime/F.I.R No.26/2016 lodged by him at Police Station Bahram, District Kamber-Shahdadkot, under Sections 302, 324, 114, 337-H(2), 148, 149, PPC and Sessions Case No.330/2016 (re-State v. Mohammad Ameen Magsi & others) arisen out of Crime/F.I.R No.32/2016 lodged by respondent No.9 at Police Station Bahram, District Kamber-Shahdadkot, under Sections 324, 337-F(v), (iii), -H(2), 504, 148, 149, PPC, from the Court of learned Sessions Judge, Kamber-Shahdadkot at Kamber to any other Court of competent jurisdiction of Karachi City.

The learned Counsel for the applicant submits a peon of learned Sessions Judge, Kamber-Shahdadkot, namely, Ahmed Nawaz son of Mohammad Bux Magsi is close relative of respondents/accused of Crime No.26/2016, who has clearly declared that as he is serving as peon of learned Sessions Judge, Kamber-Shahdadkot, the respondents/accused will be released from the murder case in Crime No.26/2016, while the applicant and his other relatives would be convicted in Crime No.32/2016.



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On the other hand, learned Counsel for the respondent No.6 has maintained that the instant application has been filed by the applicant just to linger on the matter and no ground for transfer of the case has been made out, but he has no objection if the subject cases are withdrawn from the file of learned Sessions Judge, Kamber-Shahdadt and transferred to any other Court having jurisdiction.

Learned APG, while referring the comments filed by the Presiding Officer of the trial Court, submits that it does not appeal to prudent mind that a peon of the Court would influence upon the Presiding Officer, therefore, the prayer for the transfer of aforementioned two cases appears to be unjustified.

It may be observed here that transfer of case from one Court to another Court cannot be claimed by the applicant as a matter of right or cannot be granted as a matter of routine and the Court before whom the application for transfer is moved has to see whether mistrust shown by the applicant is genuine or otherwise. Besides, while exercising jurisdiction to transfer cases from Courts balance has to be struck in order to ensure that the cases are not transferred mainly on the basis of unfounded and conjectural apprehensions. It may also be relevant to observe here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the honourous, noble and dignified duty they are performing while deciding the cases they should not be allowed to be harassed unnecessarily by the litigants to mainly entertain groundless and baseless apprehensions. In the instant case, I am agreed with the learned APG that it is beyond comprehension that a peon would influence the Presiding Officer of the Court during trial or at the time of passing final verdict in the case. Hence, no reasonable apprehension exists that the trial Court would not act fairly and impartially in the

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cases mentioned above, therefore, this transfer application being devoid of merit is dismissed accordingly along with listed applications.



JUDGE