

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Tr. Application No.S-142 of 2018

Date	Order with signature of Judge
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1. For orders on MA No.6666/2018
2. For hearing of main case

Syed Zafar Shah Bukhari, Advocate for the applicant
Mr. Illahi Bux Jamali, Advocate for respondent No.1
Mr. Shafi Muhammad Mahar, DPG

Date of hearing: 19.04.2019
Date of order: 19.04.2019

ORDER

ZAFAR AHMED RAJPUT, J:- By means of this Criminal Transfer Application under section 526 Cr.P.C r/w section 561-A Cr.P.C, the applicant Soomar Khan seeks transfer of Sessions Case No.323/2018 (*Re- The State v/s Soomar Khan and others*), arising out of Crime No.04/2018, registered at Police Station Hassan Shaheed District Naushahro Feroze, u/s 324,148,149,504, P.P.C., from the Court of learned Assistant Sessions Judge-I, Kandiaro to any other court having jurisdiction.

2. Learned counsel for the applicant submits that the attitude of the learned Presiding Officer of the trial court is partial as he is supporting the complainant who usually meets with him in his chamber. Learned counsel also submits that the Presiding Officer is pressurizing the applicant party to satisfy the complainant otherwise he shall pass order against them, hence the applicant has no hope of getting justice from the hands of learned Presiding Officer of the trial Court, therefore, instant Transfer Application has been filed.

3. On the other hand, learned counsel for the complainant as well as DPG have opposed this application on the ground that there is no substance in the allegation of applicant against the Presiding Officer of the trial Court regarding his alleged partiality.

4. Heard learned counsel for the parties and perused the material available on record.

5. It may be observed that transfer of a 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 of 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 honours, noble and dignified duty they are performing while deciding the cases, they should not be allowed to be harassed unnecessarily by the litigants to entertain groundless and baseless apprehensions.

6. In the instant case as per case diary dated 17.11.2018, applicant Soomar Khan and co-accused Bashir are facing trial while 07 other co-accused have been declared as Proclaimed offenders, but neither the said co-accused Bashir is applicant in the instant Criminal Transfer Application nor his affidavit or affidavit of any other person has been filed by the applicant with his application in support of his allegation. It may be observed that in support of the allegation against the Presiding Officer of the trial court nothing has been brought on record. Even no definite instances have been given. Hence the case cannot be transferred on the

vague and absurd allegations and at the whim of the applicant. This would setup an unhealthy precedent and would be tantamount to conferring powers of transfer upon the parties defeating the purpose of law. Hence this transfer application being devoid of merits is dismissed along with listed application.

JUDGE

Suleman Khan/PA