

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Transfer Appl. No.S-39 of 2014.

DATE	ORDER WITH SIGNATURE OF JUDGE
1. For Katcha Peshi. 2. For hearing of MA 3144/2014	

05.09.014.

Mr. Muhammad Jabbar Shaikh advocate for the Applicant
Mr. Shahid Ahmed Shaikh Assistant P.G.

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1. The applicant seeks transfer of Sessions Case No.16/2014 in Crime No.179/2013 U/s 364, 506(2),427, 34 PPC of P.S. Tando Muhammad Khan (St. Vs. Ghulam Murtaza & others), from the file of learned Sessions Judge, Tando Muhammad Khan to any court in other District. The applicant herein is accused in Sessions Case No.16/2014 and respondent No.2 is facing the trial. The grievance of applicant is that during pendency of the trial, the learned Sessions Judge, on an Human Right application No.70/2013 filed by the respondent No.2 who is accused in crime No.179/2013 has referred the matter to NAB Authorities as well as Director Anticorruption for “inquiry and action according to law” against the complainant in crime No.179/2013 without any reason or lawful justification.
2. On 25.2.2014, the learned District & Sessions Judge while entertaining Human Rights application No.70/2013 filed by the accused in crime No.179/2013 against the complainant /applicant herein has passed the following orders:-

“There are allegation against District Education Officer Tando Muhammad Khan that he has appointed out sider in District Tando Muhammad Khan by committing illegalities and irregularities, as well as, misappropriation of the Government finds. Therefore,

Chairman NAB as well as Director Anti-Corruption Provincial are directed to conduct enquiry and action according to law, under intimation to this court.

3. Learned Assistant P.G initially opposed the transfer application but when confronted with the above order of the Sessions Judge who has referred the case against the complainant to NAB and Anticorruption Authorities on the request of the accused, did not oppose the transfer application.

4. In fact the District Judge while passing the order on Human Rights application of respondent No.2 (accused in case No.16/2014) should have realized that the respondent No.2, who has moved Human Rights application, himself was facing trial in his Court in crime No.179/2013 and his so-called Human Right Application was against the complainant of crime No.179/2013 , therefore, he should have avoided or refused to entertain the same or should have confined himself within the parameters of SCHEME FOR THE PROTECTION OF HUMAN RIGHTS OF ALL CLASSES OF SOCIETY IN THE COUNTRY issued by the superior judiciary pursuant to the QUETTA DECLARATION of 14.08.1991 to all concerned and conveyed by the Secretary Pakistan Law Commission (PLD 1991 Journal part page 142). It was followed by the Bylaw for implementation of Scheme For Awareness And Enforcement of Human Rights and Obligations.

5. Once such orders have been passed against the complainant of session case, the prime witness, the character of the complainant stand impeached, at least, in the eyes of the Presiding Officer of the Court who is seized of the session case in crime No.179/2013 even before the complainant has stepped into the witness box. The above order on the

application of accused Ghulam Murtaza is sufficient to create a very serious apprehension in the mind of the complainant of crime No.179/2013 against the Presiding Officer of the Court seized of the case in crime No.179/2013, therefore, the applicant has made out a case for transfer of the case from the said Court.

6. In view of the above circumstances, Sessions Case No.16/2014 in Crime No.179/2013 (St. Vs. Ghulam Murtaza & others) U/s 364, 506(2),427, 34 PPC of P.S. Tando Muhammad Khan is withdrawn from the file of learned Sessions Judge Tando Muhammad Khan and is transferred to learned Sessions Judge, Hyderabad for disposal according to law.

7. The Cr. Transfer Application is disposed of alongwith listed application.

A.K

JUDGE