## ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

## Cr. Misc. Application No.95/2004

Date Order with signature of Judge

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For hearing of case

## 21.04.2016

Mr. Rasheed A. Razvi, advocate &

Mr.Shahid Hussain Soomro, advocates for the applicant.

Mr. Muhammad Qasim, Standing Counsel.

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This Cr.Misc.Application is pending since 2004 only on the points that Anti-Corruption court i.e The Court of Special Judge (Central)-II Karachi, has no jurisdiction to try the applicants since they are not public servants. Learned counsel for the applicants/accused submits that none of the accused named in the FIR and the callan is public servant as they are employees of New Jubilee Insurance Company Limited or the Banking Institutions. This factual position has not been disputed by the learned counsel for the prosecution that none of the accused mentioned in the FIR falls within the purview of section 21 PPC. Therefore, irrespective of the fact whether the offence was registered by FIA at their police station, the case should have been challaned before the ordinary court under Cr.P.C.

2. It is not disputed that the applicants charged with offence under section 409, 420, 467 and 471 PPC cannot be exonerated or declared guilt without recording evidence at the trial. Till date despite the order of the Court dated **01.02.2016** no progress has been made in the trial and not a single prosecution witness

has appeared in the Court of Special Judge (Central) II Karachi. Thus the alleged offence has yet to be proved by the prosecution agency and it was only a matter of jurisdiction assumed by a particular court on the basis of challan submitted to it.

In view of the above and by consent of both the counsel, 3. case No.44/2002 pending before Special Judge (Central) II Karachi stand transferred to the Court of District & Sessions Judge (East) Karachi. The jurisdiction of District & Sessions Judge (East) Karachi appears to be agreed by both the counsel on the ground that initially FIR of the theft / snatching of a car was registered with Aziz Bhatti police station and all the proceedings which so far initiated on the basis of FIR No.15 of 2002 had its origin in the said earlier FIR. The offences under Section 467 and 471 PPC are exclusively triable by Session Court and offence under Section 409 and 420 can also be tried by Session Judge. The District & Sessions Judge (East) Karachi may proceed further from the stage from where it was pending in the Court of Special Judge (Central)-II Karachi. The case may be disposed of preferably within six months from the date of receiving documents from the court of Special Judge (Central) II Karachi. Parties are free to take any legal plea which they wish before the District & Sessions Judge (East) Karachi.

With the above observation this Cr. Misc. Application is disposed of.