

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

Criminal Transfer Application No. S – 52 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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12.06.2017.

Mr. Hussain Bux Solangi, Advocate for the applicant.

M/s. Meer Ahmed Mangrio and Ghulamullah Memon, Advocates for private respondents.

Mr. Shahzado Saleem Nahiyoon, D.P.G.

ORDER

NADEEM AKHTAR, J. – The applicant has filed this transfer application seeking transfer of S.C. No. 14 of 2017 from the court of 1st Additional Sessions Judge Dadu to any other district or to any other Additional Sessions Judge in district Dadu.

2. The grounds on which the applicant is seeking transfer of the above case are that he has lost trust on the learned trial judge as he is supporting the accused persons and has also misbehaved with him on many occasions ; the learned trial judge has threatened him that he should compromise the matter and withdraw the case against the accused persons ; learned trial judge has good terms with the accused who are influential persons of the locality ; and due to the above reasons, the applicant and his witnesses could not appear before the trial court, and the applicant had to shift to district Jamshoro.

3. Comments have been filed by the learned trial court, wherein while denying the allegations levelled by the applicant as false, it has been stated that charge against the accused was framed on 04.09.2014 whereafter only one prosecution witness could be examined and the matter could not proceed further due to number of applications for adjournment filed by the complainant / present applicant ; the applicant / complainant and accused filed joint application before the trial court seeking time for an out of court settlement, which could not be materialized ; thereafter the applicant / complainant did not appear before the trial court ; prior to the present transfer application, the

applicant / complainant had filed Criminal Transfer Application No. 07 of 2017 wherein he made a statement that he does not want to press the same and in view of this statement, his application was disposed of by the Hon'ble Chief Justice of this Court vide order dated 13.02.2017 by directing the trial court to decide the case within six months ; and since the case pertains to the year 2014 and there is a direction by the Hon'ble Chief Justice to decide the same within six months from 13.02.2017, the trial court is making all possible efforts to conclude the trial expeditiously.

4. This transfer application has been opposed by the learned Deputy Prosecutor General by submitting that it has no substance. Counsel for private respondents have also opposed the application by submitting that all allegations against the trial court are false and malafide, and the lawful efforts of the trial court to conclude the trial expeditiously in compliance of the order passed by the Hon'ble Chief Justice, have been misconstrued by the applicant.

5. In my view, the above grounds urged on behalf of the applicant have no force. The applicant has not placed any material on record that may indicate that the learned trial court has acted in a partial or biased manner in proceeding with the case. It is to be noted that no material, procedural or other irregularity in the proceedings has been pointed out by the applicant, which shows that the case is being proceeded with in accordance with law. The allegations made by the applicant against the learned trial court are mere allegations without any basis or cogent reasons. It is now well-settled that a case should not be transferred from the court of competent jurisdiction unless the allegations / grounds seeking transfer of the case are supported by strong cogent reasons or convincing evidence.

6. Before parting with this case, it may be observed that in case a transfer application containing allegations against the presiding Judge is allowed, it would impliedly mean that such allegations against the presiding Judge have been deemed to be correct without hearing him. Such a situation would certainly lower the image, dignity and honour of judiciary in the eyes of public at large. It is only because of this reason that withdrawal or transfer of a case from the court proceeding therewith, is allowed only in exceptional circumstances where the grounds urged in support of withdrawal or transfer are supported by strong cogent reasons and evidence. If such practice is not followed strictly, the parties are likely to take undue advantage by filing applications for transfer of

their cases on flimsy, frivolous and baseless grounds. While considering a transfer application, it must be kept in mind that the parties should not be allowed to pick and choose the court of their own choice or liking.

For the foregoing reasons, this transfer application is dismissed. However, in view of the apprehension expressed by the applicant, SSP Dadu and SHO concerned are directed to provide full and proper protection to the applicant and his witnesses against the accused persons in accordance with law. It is expected that the learned trial court shall conduct the proceedings of the case and conclude the trial strictly in accordance with law.

J U D G E