

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

Cr. Transfer Application No.S-106 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on MA-6715/17.

For orders on MA-6716/17.

For katcha peshi.

22.09.2017.

Mr. Altaf Sachal Awan, Advocate for the applicant/complainant.

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1. Urgency granted.
2. Exemption granted, subject to all just legal exceptions.
3. Through instant transfer application, the applicant/complainant seeks transfer of Sessions Case No.1059/2014 re: State v. Muhammad & others registered under sections 392,337-F(v)),337-F(vi), 337-L(ii), PPC bearing Crime No.04/2014 of Police Station, Mirzapur, District Shaheed Benazirabad from the file of learned Ist. Additional Sessions Judge, Shaheed Benazirabad @ Nawabshah and transfer it to any other District of Sessions Judge on the ground that applicant/complainant has lost faith upon the presiding officer of the trial Court as well as on the ground that there is serious apprehension as well as danger that if the applicant/complainant will proceed with the case before the said Court, he and his witnesses might be killed at the hands of accused persons.

Learned counsel for the applicant contended that since the complainant and his witnesses have serious lives threats from the accused persons, therefore, the applicant/complainant and his witnesses are unable to proceed with the trial of the case before the said Court and, therefore, the said case be transferred to any other District of Sessions Judge. He also contended that the conduct of trial Court is harsh, therefore, he has lost confidence upon the trial Court.

I have heard the learned counsel for the applicant and perused the record.

It is alleged in the application that accused persons issued threats to the complainant party, but in this regard, there is nothing on record to show

that whether applicant party had ever moved any application to the trial Court or concerned SSP and SHO for protection of their murder threats from other side. During course of arguments, I have specifically asked a question from the learned counsel that whether he has filed any application with regard to the aggressors or murder threats of other party, he replied in negative. However, he would submit that he would be satisfied and shall not press this transfer application if appropriate directions are given to the trial Court or the concerned SHO to provide legal protection for safe appearance of the applicant party before the trial Court on each and every date of hearing. I have gone through the contents of the transfer application. The entire allegations contained in the application are generic in nature and without cogent proof, rather the applicant has also stated that he has lost faith upon the trial Court, therefore, the case be transferred to any other District of Sessions Judge.

I am afraid that for seeking transfer of the case under section 526, Cr.P.C, such conduct of the applicant cannot be accepted, as otherwise, it would be defeat the smooth functioning of the Courts and every now and then the people would come to this Court for seeking transfer of their cases on such type of bald allegations.

It may be mentioned here that the case is at initial stage, therefore, the allegation against the Presiding officer of the trial Court appears to be after thought and has not been proved.

In view of the above, this transfer application has no merit and it is dismissed in limine. However, the trial Court is directed to provide protection to applicant/complainant and his witnesses on each date of hearing as per law. Office is directed to communicate a copy of this order to the learned trial Court for information.

JUDGE.

