

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr. Misc. Appln. No.S- 533 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA-8559/19
2. For orders on office objection
3. For orders on MA-8560/19
4. For hearing of main case.
5. For orders on MA-8561/19

18.10.2019.

Syed Sajjad Ali Shah, Advocate for applicant.

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1. Urgency granted.
2. Overruled.
3. Granted.

4. The applicant by way of instant application u/s 561-A Cr.P.C has impugned order dated 03.10.2019, passed by learned Sessions Judge, Tando Allahyar, whereby he from the file of learned Civil Judge & Judicial Magistrate-III Tando Allahyar has ordered transfer of case outcome of FIR crime No.19/2019 of PS Nasarpur to his file to be tried by him along with counter case outcome of FIR crime No.18/2019 of PS Nasarpur.

It is contended by learned counsel for the applicant that learned trial Magistrate was having exclusive and independent jurisdiction over the case on his file, as such same ought not to have transferred by learned Sessions Judge

to his file to be tried by him together with the counter case. By contending so, he sought for setting aside of the impugned order.

Heard arguments and perused the record.

Admittedly, both the cases, the one which was pending on the file of learned Sessions Judge, Tando Allahyar and the other, which is ordered to be transferred to his file by learned Sessions Judge from the file of learned trial Magistrate, are counter cases. In that situation, it was obligatory for learned trial Magistrate to have sent up the case to learned Sessions Court as it was ought (not exclusively) to have been tried there in terms of mandate contained by **section 347 Cr.P.C.** The object behind such provision of law obviously was to determine the point of aggression. In these circumstances, learned Sessions Judge, Tando Allahyar by way of impugned order has corrected the jurisdictional error / mistake, same as such could not be said to be illegal to be interfered with by this Court in exercise of its inherent jurisdiction by way of instant application u/s 561-A Cr.P.C. It fails and is dismissed accordingly along with listed application, without notice to other side.

JUDGE