

ORDER SHEET

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Cr. Transfer App. No. S - 95 of 2022**

Date of hearing	Order with signature of Judge
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**Fresh case**

1. For orders on MA No.6005/2022 (U/A)
2. For orders on office objection at Flag-A
3. For orders on MA No.6006/2022 (Ex./A)
4. For hearing of main case

**16.01.2023**

Mr. Ubedullah Ghoto, Advocate for the applicant.

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**1.** Urgency application is granted.

**2 to 4.** Applicant, who is complainant before the trial Court, by filing instant transfer application, seeks transfer of Sessions Case No.340 of 2021 (*Re: State v. Abdul Rehman and others*), arising out of Crime No.36 of 2021 registered at Police Station Sarhad, District Ghotki under Sections 302, 114, 147, 148, 149, 337-H(2), PPC, pending adjudication in the Court of learned Ist Additional Sessions Judge MCTC, Ghotki to some other Court having jurisdiction.

Learned Counsel for the applicant contends that this transfer application is based upon sole ground of acquittal judgment dated 11.06.2022, whereby co-accused Abdul Rehman and Din Muhammad have been acquitted by the aforesaid trial Court; hence, the applicant has apprehension that the learned trial Court will acquit the respondent/accused and he will be deprived from justice.

It may be observed here that transfer of case from one to another Court cannot be claimed by the applicant(s) as a matter of right or cannot be granted as a matter of routine and the Court before whom the application for transfer is moved has to see whether mistrust shown by the applicant is genuine or otherwise. Besides, while exercising jurisdiction to transfer cases from Courts, balance has to be struck in order to ensure that the cases are not transferred mainly on the basis of

unfounded and conjectural apprehensions. It may also be observed here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the honourous, noble and dignified duty they are performing and while deciding the cases they should not be allowed to be harassed unnecessarily by the litigants to mainly entertain groundless and baseless apprehensions.

As regard earlier judgment passed in favour of co-accused, whereby they have been acquitted of the charge, suffice it to say that orders/judgments wrong in law or improper passed on disobedience of statutory provision of law or in violation of rules or procedure or against the party seeking transfer of the case in earlier matter, have never been accepted as valid basis for transfer of cases, unless circumstances attending passing of such orders are capable of raising a reasonable apprehension in the mind of a party that justice would not be done to him. Something more than a mere wrong order/judgment is required to justify such transfer so as to create a reasonable apprehension in the mind of the party concerned of not getting fair and impartial trial.

For the foregoing facts and reasons, no reasonable apprehension exists in the instant case that the trial Court would not act fairly and impartially; therefore, this transfer application being devoid of any merit is **dismissed in limine** along with listed application, with no order as to costs.

Abdul Basit

JUDGE