

ORDER SHEET

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

**Cr. Transfer App. No. S - 81 of 2022**

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

1. For orders on office objection at Flag-A
2. For orders on MA No.4736/2022
3. For hearing of main case

**20.01.2023**

Mr. Muhammad Raza Soomro, Advocate for the applicants.  
Respondent No.2 Qurban Ali, present in person.  
Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.

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This Criminal Transfer Application is filed by the applicants seeking transfer of Sessions Case No.251 of 2021 (*Re: The State v. Mohsin Phulpoto and others*) from the Court of learned 1<sup>st</sup> Additional Sessions Judge/(MCTC), Khairpur to any other Court having jurisdiction.

The grounds agitated by learned Counsel for the applicants are that the learned trial Court i.e. 1<sup>st</sup> Additional Sessions Judge/(MCTC), Khairpur has provided the services of another Counsel declaring the applicants pauper accused; that the complainant party stated before some persons that the learned Presiding Officer will decided the case in their favour and convict the applicants/accused; that the attitude of the learned Presiding Officer is harsh with the applicants/accused; hence, they have no hope for justice from him.

It appears that the learned trial Court vide order dated 07.02.2022 engaged Mr. Allah Dino Phulpoto, Advocate on behalf of pauper accused, namely, Mohsin, Kaloo alias Shafquat and Zakir Ali. Thereafter, matter was adjourned up to 25.10.2022 on as many as 13 dates of hearing. Out of these 13 dates, learned Counsel for the applicants/accused failed to make his appearance on 11 dates of hearing, while on one date of hearing he was present but filed adjournment application, which shows that the trial is being lingered on for want of appearance of learned Counsel for the applicants/accused.

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.

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 merit is **dismissed** along with listed application, with no order as to costs.

Abdul Basit

J U D G E