

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Transfer Appln. No. S- 70 of 2017.

Date

Order with signature of Hon'ble Judge

1. For orders on office objection as flag A.
2. For hearing of case.

02.3.2018.

Mr. Habibullah G. Ghouri, advocate for the applicant.

Mr. Khadim Hussain Khoonharo, Addl.P.G.

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Applicant is complainant of FIR bearing Crime No.215/2011 registered at P.S New Faujdari Shikarpur for offence U/S 302, 34 PPC in which he has alleged murder of his brother namely Abdul Lateef, a retired police Inspector, at the hands of accused/respondents. By means of this application he is seeking transfer of the Sessions Case No. 399 of 2012 arising out of above said FIR, pending before learned 1st Additional Sessions Judge, Shikarpur to any other District.

His main ground is that he and his witnesses have apprehension to their life. The background cited by him in support thereof is that his deceased brother when was posted at police station Garhi Yaseen in District Shikarpur, had an encounter in which three dacoits namely Bashir Brohi, Ajab Gul and Karo Shar were murdered and as a result of which an FIR No.81/2014 at P.S Garhi Yaseen was registered. After retirement when he appeared before the trial Court at Shikarpur on 29.2.2011 in respect of proceeding of the said case, he was done to death alongwith his driver in revenge of above encounter by the respondents who are near relatives of the dacoits killed in the said encounter.

Mr. Ashfaque Hussain Abro, who is appearing on behalf of respondent No.1 Ajab Gul, has opposed transfer of the case on the ground that nothing has been mentioned showing when the threats were issued to the complainant and mere words to this effect are not sufficient for transfer the case to any other district. He has relied upon the cases reported in 2015 Y.L.R 229, 2013 PCr.L.J 1523,



2012 PCr.L.J 1314 and PLD 2004 S.C 362 and has read out the dictums
laid down in the above case law. G

On the other hand, learned counsel for the applicant and Addl.P.G have supported the application and submitted that the applicant has genuine apprehension to his life and the respondents are notorious criminals against whom several cases have been registered in District Shikarpur.

I have considered submissions of the parties and perused the material available on record including the case law cited at bar. The apprehension cited by the applicant merits consideration because his brother, a retired police inspector, on account of an encounter killing three dacoits was done to death in revenge thereof allegedly by the respondents who are residents of District Shikarpur. In such a situation, the ground of the applicant for transfer from said district to any other district can not be ignored.

Accordingly, this application is allowed. Sessions Case No.399 of 2012 arising out of Crime No.215/2011 registered at P.S New Faujdari Shikarpur for offence U/S 302, 34 PPC pending before the Court of learned 1st Additional Sessions Judge, Shikarpur, is withdrawn from his file and transferred to District Larkana and assigned to learned Sessions Judge, Larkana with direction to either proceed with the case himself or assign it to any of the Additional Sessions Judge for disposal in accordance with law.

This application is disposed of in above terms.


JUDGE 02/3/2018