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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Transfer Application No.S-47 of 2016

DATE OF HEARING 15.8.2016.	ORDER WITH SIGNATURE OF JUDGE
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For Katcha Peshi.

Mr. Nazeer Ahmed Bhangwar, advocate for applicant.

Mr. Khadim Hussain Khooharo, DPG.

By means of this application filed under Section 526 of Cr.P.C, the applicant/accused seeks transfer of Sessions Case No.127/2016 (Re: State v. Moula Bux and others) arising out of Crime No.34/2012, registered at Police Station Tangwani, under Sections 395, 397, PPC from the board of learned II-Additional Sessions Judge, Kandhkot to the learned Sessions Judge, Kashmore at Kandhkot or the learned Additional Sessions Judge, Kashmore.

2. It is contended by the learned Counsel for the applicants that the applicant is accused in the above-mentioned case, which is pending trial before the learned II-Additional Sessions Judge, Kandhkot, wherein the charge has been framed and during the proceedings of the case on each and every date of hearing the attitude of the learned trial Judge towards the applicant remained very harsh and favourable to the complainant party. He further contends that the Presiding Officer of the trial Court has at number of occasions compelled the applicant to enter into compromise with complainant and the complainant is also pressurizing the applicant to enter into compromise as per their wishes, else they have publicly expressed that they would manage the decision/judgment of the case in their favour through the learned trial Judge, hence the applicant has lost his faith in the learned trial Judge.

3. The learned DPG has vehemently opposed this application and referring the comments filed by the learned trial Judge he maintains



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that the prosecution has concluded its evidence and statement of accused has also been recorded under Section 342, Cr.P.C and now the case is fixed for final arguments, hence, at this belated stage of the case this transfer application appears to be tainted with malafides.

4. I have heard the learned Counsel for the applicant and learned DPG for the State and perused the material available on record.

5. It is an admitted position that the subject case is now fixed for the final arguments before the learned trial Judge. An application for transfer of case must be made at the earliest possible opportunity after whatever facts or circumstances alleged affording reasonable basis for such application have occurred. A belated transfer application filed not on bonafide ground but with intention to delay the trial does not attract exercise of jurisdiction under Section 526, Cr.P.C.

6. So far the allegation against the Presiding officer of the trial Court is concerned, nothing has been brought on record in support thereof. Even no definite instances have been given. A case cannot be transferred on the vague and absurd allegations and at the whim of a party who moves application expressing no confidence in the trial Judge and desiring transfer of case. This would set up an unhealthy precedent and would be tantamount to conferring powers of transfer upon parties defeating the purpose of Section 526, Cr.P.C.

7. For the foregoing facts and reasons, the instant application being devoid of any merit is dismissed, with no order as to costs.


JUDGE