

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Transfer App. No.S – 119 of 2024

(Manzoor Ali Chahwan v.Haji Abdul Ghaffar Dahraj & others)

Cr. Transfer App. No. S –04 of 2025

(Imam Bux Solangi & others v. The State & another)

Date of hearing : **02.6.2025**

Date of decision : **02.6.2025**

Mr. Ghulamullah Memon, Advocate for applicant in Cr. Transfer App. No. S-119 of 2024.

Mr. Abdul Baqi Jan Kakar, Advocate for applicants in Cr. Transfer App. No. S-04 of 2025.

Mr. Shoaib Niaz Khaskheli, Advocate for respondents No.1, 5 & 6 in Cr. Transfer App. No. S-119 of 2024.

Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General.

ORDER

Amjad Ali Bohio, J: By this common order, I intend to decide both of the captioned criminal transfer applications filed under Section 526, Cr.P.C. The first application (Criminal Transfer Application No. S–119 of 2024) has been filed by the applicant/complainant, Manzoor Ali, seeking transfer of Sessions Case No. 709 of 2021 (The State v. Haji Abdul Ghaffar and others) from the Court of the learned 1st Additional Sessions Judge, Naushahro Feroze, to the Court of the learned Sessions Judge, Naushahro Feroze, or any other competent Court having jurisdiction.

2. The second application (Criminal Transfer Application No. S–04 of 2025) has been filed by the applicants/accused in Sessions Case No. 472 of 2022 (The State v. Imam Bux and others), seeking transfer of their case from the Court of the learned Additional Sessions Judge-III, Naushahro Feroze, to the Court of the learned 1st Additional Sessions Judge, Naushahro Feroze, or any other Court having jurisdiction.

3. Learned counsel for the applicant/complainant Manzoor Ali submitted that in Criminal Miscellaneous Application No. S-116 of 2022, vide order dated 11.11.2022, this Court directed the Sessions Judge, Naushahro Feroze, to withdraw Sessions Case No. 709 of 2021 from the file of the 1st Additional Sessions Judge, Naushahro Feroze, frame the charge, and examine the witnesses within fifteen (15) days. However, after framing the charge, the learned Sessions Judge re-assigned the case to the 1st Additional Sessions Judge, Naushahro Feroze, in the year 2023. This order remained unchallenged by the applicant/complainant until the filing of the present application on 22.11.2024. The transfer is now sought primarily on the ground that the Presiding Officer of the Court of the 1st Additional Sessions Judge, Naushahro Feroze, previously served as the Senior Civil Judge, Kandiaro, and upon promotion, was posted as the 1st Additional District & Sessions Judge, Naushahro Feroze. It is alleged that he maintains friendly relations with the opponents and accused persons. It is further alleged that the opponents celebrated by distributing sweets among the public, claiming that the Presiding Officer, being their friend, had assured them of acquittal. It is also claimed that the accused visited the Presiding Officer's residence in his native town, which can allegedly be verified through the CDR (Call Detail Record) of the accused, giving rise to the apprehension that fair justice will not be delivered.

4. As for applicants Imam Bux and others, they seek transfer of Sessions Case No. 472 of 2022 mainly on the ground of avoiding conflicting decisions. They request that the case be transferred from the Court of the 3rd Additional Sessions Judge, Naushahro Feroze, to the Court of the 1st Additional Sessions Judge, Naushahro Feroze, where Sessions Case Nos. 709-B of 2021 and 405-A of 2022 are already pending. It is further stated that one of the workers of Wadero Faraz Khan Dahraj lodged FIR No. 08 of 2022, and that the complainant holds

considerable influence over the Police Department of District, Naushahro Feroze. Hence, transfer of the aforementioned Sessions Case No. 472 of 2022 is also sought.

5. The learned Additional Prosecutor General, assisted by the learned counsel for the private respondents, opposed both applications. It was argued that the allegations of bias or favoritism in Criminal Transfer Application No. S-119 of 2024 are entirely unsubstantiated and based solely on conjecture. He contended that no cogent or direct evidence of misconduct, prejudice, or actual bias on the part of the Presiding Officer has been brought on record. With regard to Criminal Transfer Application No. S-04 of 2025, it was submitted that each criminal case must be adjudicated on its own merits and should not be consolidated merely on the basis of alleged factual similarity or identity of parties. Furthermore, the learned Additional Prosecutor General asserted that any allegation regarding influence or interference with the judicial process must be approached with caution and substantiated by concrete evidence, rather than general apprehensions. In support of his contentions, he relied upon the cases of *Ghulam Muhammad @ Gulab & others vs The State & others* (**SBLR 2023 Sindh 559**) and case of *Akhtar Ali vs The State* (**2020 SCMR 1243**).

6. After careful consideration of the submissions made by both sides, I find that neither application discloses sufficient or credible grounds to warrant the transfer of the respective criminal trials. In Criminal Transfer Application No. S-119 of 2024, the applicant has failed to present any verifiable or legally tenable basis to support the apprehension that justice will not be served by the current Presiding Officer. Allegations of social familiarity or prior professional associations, even if assumed to be true, cannot by themselves constitute valid grounds for transfer unless supported by specific evidence of judicial misconduct, partiality, or breach

of procedural fairness. Likewise, with regard to Criminal Transfer Application No. S-04 of 2025, the argument that all related cases should be tried by the same Court is found to be without merit. It is observed that the incident in Crime No. 08 of 2022, registered at Police Station Muhabat Dero, District Naushahro Feroze, and tried under Sessions Case No. 472 of 2022, occurred in the year 2022. In contrast, the cases already pending before the Court of the 1st Additional Sessions Judge, Naushahro Feroze, pertain to the year 2021. Accordingly, the incidents reported in the respective FIRs are neither of the same nature nor, were they committed in the course of the same transaction. Therefore, they cannot be tried by the same Court, and the principle of “avoiding conflicting decisions” does not apply in the present circumstances. It is evident that the two incidents are entirely distinct in nature. Wisdom in this regard is drawn from the judgment of the Hon’ble Supreme Court of Pakistan in the case of *State through Deputy Prosecutor General Camp Office, Karachi v. Ramesh M. Udeshi Ex-Secretary, Board of Revenue (Land Utilization), Sindh and others (PLD 2003 SC 891)*.

7. Admittedly, both cases are distinct in substance and fact, and their victims, complainants, and witnesses are entirely separate; hence, they cannot be jointly tried. It should be noted that the transfer of a case from one Court to another is neither a matter of right for the applicant nor, a routine exercise. The Court before which a transfer application is filed must assess whether the mistrust harboured by the applicants is genuine or merely conjectural. In exercising its jurisdiction to transfer cases, a balance must be struck to ensure that applications are not granted on the basis of unfounded or speculative apprehensions. Moreover, the Presiding Officers of Courts deserve full protection against frivolous allegations, given the honourable, noble, and dignified duty that they discharge. While deciding cases, they should not be subjected to unnecessary harassment by litigants who seek to advance groundless or baseless fears. It is held in

the case of *Mirza Akbar Ali v. Mirza Iftikhar Ali and others* (**PLD 1956 Federal Court 50**) as under:

“Friendship is too vague and general a term to be judicially recognized as a factor disqualifying a Judge to hear a cause to which one of the parties is his friend”.

8. To support the contention raised by counsel for the applicant concerning adverse orders passed against him, no substantial material has been placed on record to suggest that the learned 1st Additional Sessions Judge is prejudiced or biased in a manner that would justify transferring the case. It is a well-established principle that justice must be administered without fear or favour; accordingly, Presiding Officers deserve protection from frivolous transfer applications. Such protection ensures transparent and even-handed justice, preventing any litigant from intimidating a Judge and thereby tilting the scales of justice under a threat of maligning. Mere apprehension that an adverse judicial order might be passed against a party is not, by itself, a sufficient ground for transfer, since an aggrieved party has the remedy of challenging any order before a higher forum, as held in the cases of *Sameer Ehsanullah Makhzan and 3 others v. Muhammad Asif Zaman and 3 others* (**PLD 1993 Lahore 554**) and *Mian Muhammad Rafique Saigol v. BCCI and others* (**1996 CLC 1390**). Recently Hon’ble Apex Court held in the case of *Akhtar Ali v. The State* (**2020 SCMR 1243**) as under:

“2. In his move before the Courts below, we have found his accusations directed against the learned Judges as outrageous as well as scandalous; he has also targeted the members and office bearers of the local Bar, apparently having no axe to grind in his trivial contests wherein we have found the respondents equally reckless and abrasive. We view the repugnant course adopted by the parties before the learned Courts with disdain. It is fundamentally important for the peaceful preservation of any society that its Judges attend call of their office fearlessly with dignity, respect and independence so as to sit on the judgment

between the contestants, regardless of their status or station, without let or hindrance. A society cannot countenance obstruction or interference with the administration of justice without incurring disastrous consequences, therefore, to ensure freedom to a Judge within the remits of law is a duty cast upon all and sundry without exception and immunity.”

9. No other substantial ground or material has been placed on record to suggest that the learned 1st Additional Sessions Judge, Naushahro Feroze, is prejudiced or biased against the applicants in a manner that would justify transfer of the case.

10. In view of the foregoing reasons, Criminal Transfer Application No. S-119 of 2024 and Criminal Transfer Application No. S-04 of 2025 are found to be devoid of merit and are accordingly dismissed. Above are the reasons of short order dated 02.06.2025 passed by this Court. The trial Courts concerned are directed to proceed with the respective cases expeditiously in accordance with law, ensuring due observance of the principles of fair trial and natural justice. Office is directed to place a signed copy of this order in the connected matters.

J U D G E

Naveed Ali