IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Revision Application No. S-20 of 2026
[The State v. Haji Abdul Rauf Khoso & Others]

Counsel for the Applicant	:	Mr. Aitbar Ali Bullo, DPG
Counsels/Representatives for Respondents	:	Mr. Ghulam Dastagir A. Shahani, Advocate for Respondents No.1 to 8 Mr. Abdul Rehman A. Bhutto, Advocate for Respondents No.10 & 11
Date of Hearing	:	22-06-2026
Date of Judgment	:	04-09-2026

J U D G M E N T

RIAZAT ALI SAHAR, J: - Through this Criminal Revision Application, the State calls in question the order dated 08.05.2025 passed by the learned Special Judge Anti-Corruption Court (Provincial), Larkana, in Special Case No.02 of 2025, arising out of NAB Reference No.11 of 2019. By the impugned order, an application moved by the Assistant Prosecutor General for return or referral of the reference to the Chairman, Enquiries and Anti-Corruption Establishment, Sindh, for a fresh inquiry and investigation was dismissed. The principal relief sought in this revision is that the pending case be withdrawn from file of the learned Special Judge Anti-Corruption Court (Provincial), Larkana and remitted to the Anti-Corruption Establishment, Karachi, so that proceedings may begin afresh under the provincial anti-corruption regime.

2. The reference alleges that, on receipt of multiple complaints, NAB Sukkur authorised an inquiry on 22.06.2017 into the alleged illegal allotment or transfer of government land in favour of respondent Haji Abdul Rauf Khoso and into alleged

assets beyond known sources of income. It states that the inquiry was converted into an investigation on 18.10.2017 after collection of incriminating material. The transfer order records that date, though another part of the record appears to mention 18.11.2017. The discrepancy is noticed but is not determinative of the present revision.

3. The **prosecution case**, in substance, is that 13 acres and 30 ghuntas in Block No.835, Deh Pako Kashmore, were falsely shown as restored in favour of certain grantees despite cancellation or absence of lawful restoration; that a fabricated or interpolated note was inserted in the A-form to claim a further 41 acres and 7 ghuntas in Block No.833; and that the resulting 54 acres and 37 ghuntas of government land were alienated or transferred through collusion between political figures, beneficiaries and officers or officials of the Revenue Department. The reference invoked section 9(a)(i), (vi), (xi) and (xii), punishable under section 10 of the National Accountability Ordinance, 1999 ("NAO, 1999"). These allegations are mentioned only to identify the factual foundation of the prosecution; no view upon their truth or legal sufficiency is expressed in this judgment.

4. **NAB Reference No.11 of 2019** was filed before Accountability Court-I, Sukkur, on 25.07.2019. Charge under the NAO, 1999 was framed on 29.01.2020 and three prosecution witnesses were examined out of a cited list of twenty-five. The depositions of those three witnesses have not been supplied to this Court. Their contents, the extent of any cross-examination and the exhibits produced through them therefore cannot be adjudged witness by witness in these proceedings.

5. **Parliament thereafter enacted the National Accountability (Amendment) Act, 2022 (Act XI of 2022), the National Accountability (Second Amendment) Act, 2022 (Act XVI of 2022), and the National Accountability (Amendment) Act, 2023 (Act XXIV of 2023), introducing, inter alia, a monetary threshold for NAB's jurisdiction and transitional machinery for matters falling outside that**

jurisdiction. The amendments were restored when the Supreme Court, by judgment dated 06.09.2024 in ***Islamic Republic of Pakistan through Secretary, Ministry of Law and Justice, Government of Pakistan, Islamabad v. Imran Ahmed Khan Niazi and others (Intra-Court Appeals Nos.2, 3 and 4 of 2023, unreported),*** set aside the earlier majority judgment which had invalidated material parts of them.

6. Upon restoration of the amendments, applications were moved before Accountability Court-I, Sukkur. By order dated 27.01.2025, the Accountability Court found that the matter no longer fell within its amended pecuniary jurisdiction and, acting under section 4(4)(d) of the NAO, 1999 (amended), transferred the pending case directly to the Special Judge Anti-Corruption (Provincial), Larkana. The accused were directed to appear there on 24.02.2025 and the entire record and proceedings were ordered to be transmitted. No challenge to that transfer order by the State, NAB or any accused is shown from the material placed before this Court. The transferee Court accordingly registered Special Case No.02 of 2025.

7. **On 24.02.2025, the Assistant Prosecutor General, acting upon the Prosecutor General Sindh's letter dated 21.01.2025, sought referral of the case to E&ACE, Karachi, for a fresh inquiry and investigation, registration of a provincial case and submission of a report under section 173, Cr.P.C.** Although the accused initially raised no objection, they later withdrew that consent when concerns were expressed about the effect which treating the earlier proceedings as coram non judice might have upon the evidence and bail orders. NAB opposed the application and maintained that the statutory scheme permitted continuation from the existing stage.

8. By the impugned order dated 08.05.2025, the learned Special Judge Anti-Corruption (Provincial), Larkana dismissed the application. He held that clauses (d) and (e) of section 4(4) NAO 1999 (amended) authorised transfer and continuation, while alteration of charge and supplementary investigation remained

permissible. In view of the reported non-availability of complete papers, however, he directed the Director General, NAB Sukkur, to nominate a focal person for production of documents and witnesses. The State questions that order on the grounds that NAB and E&ACE operate under distinct statutory regimes; that provincial inquiry, approvals, registration and investigation cannot be bypassed; that a NAB reference cannot automatically be treated as a report under section 173, Cr.P.C.; and that continuation without fresh investigation would cause prejudice. Reliance was also placed upon a pleaded Rule **"8-B"** of the Sindh E&ACE Rules, 1993 through recent notification.

9. The position attributed to the respondents before the learned Special Judge was not uniform. Their legitimate legal interest is nevertheless plain. They cannot be tried by a Court lacking jurisdiction or upon a charge which that Court has no authority to try. Equally, they cannot be subjected, without statutory necessity, to indefinite repetition of a trial in which judicial steps were lawfully completed. NAB's recorded position is that the transfer occurred under an express parliamentary mechanism; the pending trial was not extinguished; any necessary alteration of charge may be undertaken under the Code; and an administrative direction cannot override the statutory transition.

10. I have heard the learned Deputy Prosecutor General for the applicant-State and learned counsel for the respondents and have examined the impugned order, the available record and the governing law. **Four questions require separate treatment: first, jurisdiction over the offence after transfer; second, continuity of the judicial proceeding; third, amendment or substitution of the charge; and fourth, the admissibility and use of evidence recorded before transfer. Confusion results if these distinct questions are treated as one.**

11. The answer begins with section 4 of the NAO, 1999, as amended. Its transitional scheme is deliberately stage-sensitive. Clauses (a) and (b) of section 4(4) require the Chairman NAB to examine pending inquiries and investigations which may concern

offences under another law and permit their referral to the relevant agency, authority or department. Clause (c) then provides that the recipient may proceed with the inquiry or investigation from the stage at which it was pending, but under the law governing that recipient. Thus, even at the investigative stage, the statute does not command destruction of all work already undertaken.

12. A case which has entered the judicial domain is dealt with differently. Under section 4(4)(d) NAO 1999 (amended), where the Court seized of a case is of the opinion that it is not triable under the NAO, 1999, that Court shall, after examination with the assistance of NAB, refer it to the appropriate court, tribunal, forum, agency, authority or department for exercise of jurisdiction in accordance with the applicable law. **Clause (e) provides that, upon such transfer, the court, tribunal or forum of competent jurisdiction *"may proceed with the case from the stage at which it was pending in the Court and shall try and decide the same under the law regulating its jurisdiction and procedure".*** The first limb preserves continuity; the second limits it by the substantive jurisdiction and procedure of the recipient.

13. **The scheme is completed by section 4(5) NAO 1999 (amended) under which the recipient court, tribunal, forum, agency, authority or department may, after receipt of the case, re-examine any witness or examine a new witness in accordance with its jurisdiction under the law for the time being in force. Section 4(6) NAO 1999 (amended) applies this mechanism to pending inquiries, investigations, trials and proceedings concerning matters which cease to be offences under the NAO, 1999, and makes the relevant clauses of section 4(4) NAO 1999 (amended) applicable mutatis mutandis. Read together, these provisions preserve what can lawfully be preserved, require the recipient to act only within its own jurisdiction, and provide a focused corrective power where further evidence is needed.**

14. The recent Division Bench judgment of this Court in ***National Accountability Bureau Karachi v. Javed Iqbal and others (2026 SHC KHI 1368)*** directly construed clauses (d) and (e). It holds, first, that an Accountability Court must judicially examine the case with NAB's assistance before determining that it is not triable under the NAO, 1999; and, secondly, that the word "may" in clause (e) leaves the transferee Court with judicial discretion whether to proceed from the stage received or to try the matter afresh. That discretion is not an unguided option. It must be exercised upon the record, the recipient's governing law, the nature of the required charge and demonstrable prejudice, not upon a bare preference for duplication.

15. A still closer statutory analogy is furnished by the Larger Bench decision in ***Abdul Wahab and another v. The State (2020 P Cr.LJ 556).*** It construed section 16-A of the NAO, 1999 in the converse setting of a pending case transferred from another competent Court to an Accountability Court. The Larger Bench held that the special transfer provision contemplated continuation of the case from the point already reached, without a fresh reference or fresh cognizance, and treated the statutory direction that witnesses need not be recalled and evidence need not be recorded again as a clear indication that the earlier judicial record survived the change of forum. Section 16-A and the present section 4(4)(e) NAO 1999 (amended) operate in opposite directions and are not identical in language; the authority is relied upon for the narrower proposition that, when Parliament transfers the same pending trial through a special statutory bridge, displacement of the forum does not by itself dissolve the proceeding already lawfully conducted.

16. The general rule of continuity also finds support, by close statutory analogy, in ***Shahbaz Khan alias Tippu and others v. Special Judge, Anti-Terrorism Court No.3, Lahore and others (PLD 2016 SC 1)***. While construing section 23 of the Anti-Terrorism Act, 1997, the Supreme Court rejected the apprehension that transfer from an Anti-Terrorism Court necessarily entailed a de novo trial and held that the trial resumes from the stage at

which it was transferred. That authority is not applied as though section 23 of the Act of 1997 and section 4 of the NAO, 1999 were textually identical. It is relied upon for the sound principle which both provisions embody: a statutory change of forum does not, without more, annihilate a pending judicial proceeding.

17. Accordingly, the ordinary course under section 4(4)(e), where the transferor Court was competent when the acts in question were performed, the parties remain the same, the factual prosecution remains substantially unchanged and no concrete prejudice is shown, is continuation from the transferred stage. A de novo trial remains available where the recipient's governing law or fairness genuinely requires it, but it is an exception requiring reasons. Otherwise, the statutory words permitting continuation would be deprived of practical effect and lawful judicial labour would be discarded without legislative command.

18. The expression coram non judice must in this setting be used with precision. If a Court never possessed subject-matter jurisdiction, its purported evidence and orders stand on a fundamentally different footing. But where the Accountability Court possessed authority when a reference was filed, framed a charge and recorded evidence, a subsequent statutory change curtailing its continuing jurisdiction does not retrospectively convert every earlier act into an act of a stranger to the law. The very enactment of a transfer provision which speaks of the stage at which the case was pending presupposes the continued legal existence of the prior proceeding. Nothing presently before this Court establishes that Accountability Court-I, Sukkur, was incompetent ab initio to record the three depositions.

19. This conclusion does not answer the different question of what offence the transferee Court may try. Jurisdiction travels from statute, not from the label affixed by the transferor Court. A transfer order cannot enlarge the penal jurisdiction of the recipient, create a new offence, or authorise a Special Judge Anti-Corruption to convict under section 9 of the NAO, 1999 if the statute governing that Judge does not confer such power. Nor can

the transfer mechanically convert each ingredient of an accountability offence into an ingredient of an offence under the Prevention of Corruption Act, 1947, the Pakistan Penal Code or any other enactment.

20. The charge framed on 29.01.2020 was a lawful accusation for purposes of the then pending trial under the NAO, 1999. It remains part of the procedural history, but it cannot operate as the charge upon which the transferee Court tries offences outside its statutory competence. The learned Special Judge must examine the transferred record, hear the parties and determine which substantive offence or offences, if any, are disclosed and are legally triable by him. He must also determine any question of cognizance, sanction, authorisation or other jurisdictional precondition under the law regulating his Court. Section 4(4)(e) supplies a bridge between forums; it does not deem compliance with every independent requirement of the recipient law.

21. Where the existing charge cannot lawfully sustain the trial before the recipient, it must be altered, amended, superseded or framed afresh, as the applicable procedure requires, so that it states the substantive penal provision which the transferee Court is competent to try and gives each accused clear notice of the accusation. The Court cannot simply replace the words "section 9 of the NAO, 1999" with the citation of another enactment. It must compare the ingredients of the legally available offence with the factual allegations and material on record. No opinion is expressed here as to the particular provision ultimately applicable, because the complete trial record is not before this Court.

22. Sections 227 to 231, Cr.P.C. provide the controlling safeguards. Section 227 authorises alteration of or addition to a charge at any time before judgment. Section 228 requires every alteration or addition to be read and explained to the accused. Under section 229, the trial may proceed immediately if continuation is not likely, in the Court's opinion, to prejudice the accused in his defence or the prosecutor in the conduct of the case. Where such prejudice is likely, section 230 permits a new trial to

be directed or the trial to be adjourned for the necessary period. The Code therefore does not equate every alteration with an automatic new trial; it makes prejudice the dividing consideration.

23. Section 231 Cr.P.C deals specifically with witnesses after alteration of charge. Once a charge is altered or added to after commencement of trial, the prosecutor and the accused shall be allowed to recall or re-summon and examine, with reference to the alteration or addition, any witness already examined, and the Court may call any further material witness. Section 4(5) of the NAO, 1999 reinforces that power in a transferred case. The statutory remedy is thus tailored: the Court may reopen the testimony which the altered charge makes necessary, instead of mechanically expunging all evidence and commencing the entire prosecution again.

24. In ***Muhammad Jameel Azeem v. Ghulam Shabbir and others (2011 SCMR 1145),*** the Supreme Court affirmed that a trial Court may alter or add to a charge before judgment where the circumstances justify it, subject to the safeguards prescribed by the Code. The authority supports the transferee Court's power to bring the accusation into conformity with the law it is competent to administer; it does not authorise conviction on an undisclosed or unexplained charge.

25. ***Abdul Ghaffar v. The State and another (2006 SCMR 56; PLJ 2006 SC 174)*** supplies an important qualification. There, addition of section 337-F(ii), P.P.C. did not materially transform an existing charge under section 324, P.P.C.; the factual allegation of effective firing already encompassed the injury, no request to recall a witness had been made, and no failure of justice was shown. The Supreme Court held that section 231 confers a right to seek recall with reference to the alteration and that, in those circumstances, non-recall was at most curable under section 537, Cr.P.C. The case demonstrates that alteration of charge does not invariably make all earlier evidence useless or require its wholesale repetition.

26. The other side of the principle appears in ***Naeem Akhtar v. The State (PLD 2021 Sindh 533).*** Section 302, P.P.C. was added after evidence had been recorded, yet the witnesses were not meaningfully recalled and their former evidence was mechanically carried forward. This Court held section 231 to be mandatory in that setting and directed that the witnesses be recalled for examination and cross-examination. The precise proposition is that a material enlargement of the accusation cannot be insulated from adversarial testing by a paper adoption of the old testimony.

27. The same concern informed ***Zubair Ahmed v. The State (PLD 2023 Sindh 151).*** After an appellate remand and framing of a fresh charge, the earlier evidence was adopted by consent instead of being lawfully recorded and tested with reference to the new charge. This Court held that the procedure offended sections 231 and 353, Cr.P.C. and Article 10-A of the Constitution because actual prejudice had resulted. It was the fresh post-remand trial and the unlawful mode of adoption, not the abstract existence of an amended charge, which required corrective action.

28. These authorities are reconciled by attending to prejudice and to the nature of the alteration. The trial Court must make the right under section 231 Cr.P.C. effective and decide any request judicially. Where the new charge introduces a material factual issue, ingredient or allegation which the earlier examination and cross-examination did not fairly engage, the relevant witness should ordinarily be recalled or re-summoned for further examination and cross-examination. Where the alteration merely gives a different legal description to substantially the same factual accusation, the Court may, after hearing the parties and recording reasons, continue without needless repetition, consistently with sections 229, 231 and 537, Cr.P.C. An omnibus order either discarding or adopting every deposition is equally unsatisfactory.

29. The distinction between a charge and evidence is decisive. A charge is the Court's formal legal statement of the accusation to be tried. A deposition is proof directed to facts in issue or relevant facts. A transfer which changes the governing penal provision

necessarily requires the charge to be brought within the transferee Court's jurisdiction. It does not follow that a witness's competent testimony about land records, official acts, alleged interpolation, transfer of property, abuse of authority, pecuniary advantage, personal gain or misappropriation ceases to exist merely because the corresponding legal ingredients must now be stated under another statute.

30. If the factual foundation of the prosecution remains substantially the same, evidence lawfully recorded on that foundation retains its potential relevance. Its eventual weight and the purpose for which it may be used remain matters for the trial Court. Conversely, if the new charge depends upon a materially different act, mental element, entrustment, gain, relationship or other ingredient which was not a real issue when the witness first testified, the accused cannot be deemed to have cross-examined on an accusation he was never called upon to meet. Recall or further cross-examination is then the proportionate remedy, where available, rather than nullification of testimony unrelated to the new issue.

31. It is at this point that the role of Article 47 of the Qanun-e-Shahadat Order, 1984 must be accurately confined. In a trial which continues by force of section 4(4)(e), a deposition competently recorded in the presence of the accused, and already forming part of that same pending judicial record, is not made evidence anew by a ritual order of "adoption". Section 4(4)(e), read with the recipient's procedure, supplies procedural continuity. Article 47 is not a blanket transfer provision and is not the juridical source for carrying the entire evidentiary record from one competent Court to another.

32. A separate evidentiary question arises where a party seeks to prove the truth of facts by relying upon former testimony without producing the witness at the later stage, particularly where the transferee Court has directed a fresh trial, the deposition comes from a separate proceeding, or the witness is said to be unavailable. Article 47 QSO then governs. By its express

text, evidence given in a judicial proceeding, or before a person authorised by law to take it, is relevant in a subsequent judicial proceeding or a later stage of the same judicial proceeding only when the witness is dead, cannot be found, is incapable of giving evidence, is kept out of the way by the adverse party, or cannot be obtained without delay or expense which the Court considers unreasonable.

33. Those gateway circumstances are followed by cumulative safeguards: the former proceeding must have been between the same parties or their representatives-in-interest; the adverse party in the first proceeding must have had the right and opportunity to cross-examine; and the questions in issue must have been substantially the same. The Explanation treats a criminal trial or inquiry as a proceeding between the prosecutor and the accused. Article 47 QSO therefore cannot be invoked merely by showing that the case has been transferred or that a certified deposition exists. The party relying upon it must establish the statutory foundation, and the Court must decide admissibility by a reasoned, witness-specific order.

34. The first inquiry concerns legal competence and identity of proceedings. The earlier testimony must have been taken in a judicial proceeding by a Court competent at that time, or by a person legally authorised to take it. A deposition recorded by a body lacking authority is not rehabilitated by transfer. Where the same prosecution and the same accused continue in the transferred case, the requirement as to parties may ordinarily be satisfied by the Explanation to Article 47; but the Court must still verify the position of the particular accused and the particular testimony rather than infer it from the caption alone.

35. The second inquiry is not exhausted by a formal right of cross-examination. The record must disclose a real opportunity to exercise that right. ***Muhammad Bashir v. Rukhsar and others (PLD 2020 SC 334)*** holds that cross-examination is a right which the adverse party may forego but of which he cannot be deprived, and that denial of that opportunity in a criminal trial violates the

constitutional guarantee of fairness. A deliberate and informed waiver stands differently from absence, want of notice, incomplete cross-examination, or a circumstance in which the material issue was not yet part of the accusation.

36. The third inquiry is substantial identity of the questions in issue. Identity of statutory section is not indispensable: the same transaction may remain in issue though its legal characterisation changes. But a merely similar subject-matter is insufficient. The Court must compare the factual propositions which the earlier testimony was directed to proving with the ingredients of the amended charge. If a new material ingredient could reasonably have generated a different line of cross-examination, substantial identity cannot be presumed for that purpose. Section 231 and section 4(5) then furnish the ordinary means of curing the potential prejudice by recall or further examination.

37. The fourth inquiry is the witness's present unavailability. Death, inability to be found, incapacity, obstruction by the adverse party, or unreasonable delay or expense in obtaining attendance is not a dispensable formality; one of those conditions must be proved whenever Article 47 QSO is relied upon as the basis for treating former testimony as substantive evidence. Articles 120 and 131 of the Qanun-e-Shahadat Order place the foundational burden upon the party which asks the Court to act upon the exception and require the Judge to determine the admissibility fact. Mere assertion by the prosecutor, an unexplained process return, inconvenience, or the age of the case is not by itself enough.

38. ***Arbab Tasleem v. The State (PLD 2010 SC 642***) explains the governing principle and its exceptional character. The Supreme Court stated that the general rule is testimony on oath before a person authorised by law, in the presence of the adverse party with the right of cross-examination. It permitted reliance, in the unusual circumstances before it, upon the examination-in-chief of a witness who was subsequently murdered after the defence had repeatedly failed to avail opportunities of cross-examination, while also requiring caution in assessing weight. The case is authority

for principled application of an exception; it is not authority for automatic transposition of every earlier deposition.

39. ***Muhammad Saddique v. The State (2018 SCMR 71)*** is equally instructive. The Supreme Court recognised that Article 47 QSO may make earlier judicial testimony relevant where a witness has died or another enumerated circumstance exists, but emphasised the requirements of the same parties and a prior right and opportunity of cross-examination. In that case the earlier statement had not been legally brought onto the record of the de novo trial and could not be acted upon by the Court of its own motion. The authority thus separates the existence of testimony in an old file from its lawful proof and use in the proceeding being decided.

40. The Lahore High Court recently applied the same discipline in ***Taj Din v. The State etc. (2026 LHC 3617).*** It held that depositions recorded under section 512, Cr.P.C. do not automatically become substantive evidence: the prosecution must prove the death, incapacity, unavailability or other statutory basis for resort to Article 47 QSO, and the admissibility foundation must be judicially determined. That decision is persuasive here because it cautions against treating physical presence of a deposition on the record as a substitute for satisfaction of the law of evidence.

41. Article 47, when satisfied, makes the former testimony relevant; it does not make it conclusive or immune from evaluation. The transferee Court must consider the extent of prior cross-examination, any change in the charge, the reason for present non-production, the condition and certification of the deposition, and the ordinary rules governing proof and weight. Any incriminating circumstance ultimately relied upon must also be put to the accused under section 342, Cr.P.C. These safeguards are part of the fair trial guaranteed by Article 10-A of the Constitution.

42. The treatment of documents and exhibits requires the same care. In ***Syed Ali Nawaz Shah and others v. The State (2023 YLR 1887; 2022 SHC KHI 787),*** a NAB matter proceeded

afresh after remand, but witnesses merely referred to documents exhibited in the earlier proceedings and neither the documents nor certified copies were properly brought on the later record. This Court held that the procedure violated section 353, Cr.P.C. and Article 47 QSO. The precise lesson is that an exhibit number in an earlier file is not self-proving evidence in a distinct or fresh trial; the document must be lawfully transmitted, tendered and proved, subject to any applicable exception.

43. Nor do the older contrary authorities compel a different result in a continuing transferred proceeding. ***Nur Elahi v. The State and others (PLD 1966 SC 708)*** holds that every separate criminal proceeding must be decided upon its own record and disapproves reading evidence recorded in one case as evidence in another. ***Khalid Mehmood alias Khaloo v. The State (2022 SCMR 1148)*** reiterates that evidence recorded in the separate trial of co-accused cannot, without lawful basis, be used against an accused tried later. Both authorities protect the integrity of separate trials. They do not hold that an express statutory transfer of the same pending case erases the record which the transfer provision itself preserves.

44. ***Muhammad Asif v. The State (2019 PCr.LJ 521)*** is also distinguishable but important. There, an appellate order had set aside the conviction and expressly directed a fresh charge and fresh recording of prosecution and defence evidence. The trial Court nevertheless adopted the former testimony by consent. This Court held the procedure unlawful and observed, with reference to ***Zahoor v. The State (1991 MLD Karachi 1951),*** that depositions not satisfying Article 47 could not be treated as evidence, and to ***Ali Akbar v. The State (PLD 1997 Karachi 146),*** that inadmissible evidence does not become admissible by consent. Those propositions are accepted. The present case, however, involves neither an appellate direction for retrial nor an attempt to import testimony from another case. It involves a pending trial transferred under a provision which expressly contemplates continuation.

45. The distinction may therefore be stated shortly. A true de novo trial begins again because the earlier trial has been set aside, declared void, or ordered to be repeated. In such a trial, old testimony cannot be silently copied into the new record; it must be proved through Article 47 QSO or another lawful route if the witness is not produced. A statutory transfer under section 4(4)(d), by contrast, changes the forum of the pending proceeding. Unless a competent Court orders otherwise for recorded reasons, the proceeding remains one continuous case. Its charge must conform to the recipient's jurisdiction, but its lawfully recorded evidence is not extinguished merely because the legal forum and statutory description have changed.

46. Applied to the present matter, the case had passed beyond complaint, inquiry and investigation. A reference had been filed, charge framed and three of twenty-five witnesses examined. The State seeks to send the matter backwards to E&ACE for an entirely fresh inquiry, investigation, registration and report under section 173, Cr.P.C. No provision has been shown which commands that result for every judicial case transferred under section 4(4)(d) NAO 1999 (amended). Nor has any specific illegality in the original NAB investigation or any identified prejudice incapable of cure by amendment of charge, recall, further evidence or lawful supplementary investigation been demonstrated before this Court.

47. The argument that a NAB reference is not, in form, a police report under section 173, Cr.P.C. does not defeat the statutory transfer. Section 4 is the special legislative gateway by which a pending case and its record reach the competent recipient. It does not require the Court to indulge a fiction that the NAB reference always was a police report. After receipt, the Special Judge must comply with the law regulating his jurisdiction and procedure and may require such supplemental step, report, sanction, material or investigation as that law makes necessary. What he cannot be compelled to do, merely because the originating investigation was conducted by NAB authorities, is to nullify the

whole judicial proceeding and begin from an initial complaint without a statutory or prejudice-based reason.

48. An administrative communication of the Prosecutor General may regulate prosecutorial administration within the field permitted by law, but it cannot nullify the unchallenged transfer order dated 27.01.2025, confer jurisdiction upon an agency, or require a Court to surrender lawful seisin. Likewise, a rule governing the manner in which E&ACE receives and processes a complaint, inquiry or investigation cannot be construed to override the distinct statutory treatment of a pending judicial case. The pleaded reliance upon recently inserted Rule "8-B" of Sindh E&ACE Rules,1993 cannot carry the matter further when no authenticated text establishing the asserted consequence has been produced in this revision.

49. Because the three depositions and the complete transferred record are not before this Court, it would be unsafe to pronounce upon the admissibility or need for recall of any particular witness. Those questions require inspection of the charge, the deposition, the presence of each accused or pleader, the scope and completion of cross-examination, the exhibits proved, the corresponding ingredients of any amended charge and, if Article 47 QSO is invoked, proof of present unavailability. The learned Special Judge must decide them individually, not by an advance declaration that all previous evidence is either automatically adopted or wholly useless.

50. The lawful course is consequently as follows. The learned Special Judge shall first secure the complete original or certified transferred record, including the three depositions, cross-examinations, orders, inventories and exhibits, from Accountability Court-I, Sukkur and NAB Sukkur; any transmission deficiency shall be cured by verification or lawful reconstruction. He shall then determine his own jurisdiction and every mandatory cognizance, sanction or authorisation requirement. He shall alter, amend, supersede or frame the charge under the substantive penal provisions legally triable by him, read

and explain it to each accused, and record their pleas. These directions do not predetermine which offence, if any, the material establishes.

51. **The learned Special Judge, Anti-Corruption Court (Provincial), Larkana shall ordinarily proceed with the case from the stage at which it was transferred, in accordance with sections 227 to 231, 353 and 537, Cr.P.C., section 4(5) of the NAO, 1999, the Qanun-e-Shahadat Order and Article 10-A of the Constitution. If amendment of the charge raises any new material issue on which the accused had no fair opportunity to cross-examine a witness, such witness may be recalled or re-summoned and further evidence may be recorded, where necessary. A de novo trial or repetition of earlier proceedings shall be ordered only where any resulting prejudice cannot otherwise be cured, for reasons to be recorded.**

52. **If any party seeks to rely upon a former deposition without producing the witness and invokes Article 47 QSO, the learned Special Judge Anti-Corruption Court (Provincial), Larkana shall require proof that the earlier evidence was taken in a competent judicial proceeding or by a legally authorised person; that the proceedings were between the same parties within the meaning of the Article; that the accused had the right and an effective opportunity to cross-examine; that the questions in issue were substantially the same; and that one of the prescribed grounds of death, inability to be found, incapacity, obstruction, or unreasonable delay or expense is established. The Court shall pass a reasoned order in respect of each such witness and shall ensure that the deposition and connected exhibits are lawfully placed on the record.**

53. For the foregoing reasons, the principal relief sought by the applicant-State cannot be granted. This Criminal Revision Application is ***dismissed***. The operative conclusion of the order

dated 08.05.2025, whereby the learned Special Judge Anti-Corruption Court (Provincial), Larkana refused to remit the entire matter to E&ACE Sindh for a fresh inquiry and investigation, is maintained, subject to the legal clarifications and directions contained in this judgment.

54. Nothing stated herein shall prejudice the merits of the prosecution or defence. All questions concerning the transferee Court's jurisdiction, the proper statutory charge, sanction or authorisation, admissibility, authenticity, evidentiary weight, recall of witnesses, supplementary investigation and prejudice remain open for determination in accordance with law. Nor shall this judgment be read as adjudicating any remedy which may otherwise be competent against the transfer order dated 27.01.2025.

55. Since the reference dates from 2019, the learned Special Judge Anti-Corruption Court (Provincial), Larkana shall, consistently with Article 10-A of the Constitution and the directions above, proceed **expeditiously** and avoid unnecessary adjournments. The Criminal Revision Application stands dismissed in the above terms.

Let a copy of this judgment be circulated amongst all the learned Special Judges, Anti-Corruption (Provincial), throughout the Province of Sindh for their guidance and compliance. A copy thereof shall also be transmitted to the Chairman, National Accountability Bureau (NAB), Islamabad, for information and necessary action, if any.

JUDGE

Approved for Reporting