

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr.Transfer.Appl.No.S- 28 of 2014

DATE ORDER WITH SIGNATURE OF JUDGE

07.04.2014.

Mr. Shahzada Ali Nawaz, Advocate for applicant.
Syed Madad Ali Shah, Advocate for respondents.
Mr. Shahid Shaikh, A.P.G. for the State.

=

MUHAMMAD JUNAID GHAFAR, J:- Through instant transfer application, the applicant seeks transfer of Sessions Case No. 243/2012 (State v. Syed Abdul Ghafoor and others) presently pending before the Court of learned Additional Sessions Judge, Matiari, to the Court of learned Sessions Judge, Jamshoro. Since the applicant and his witnesses were being called absent, the learned Additional Sessions Judge, Matiari has also issued Bailable Warrants against prosecution witnesses through S.S.P. Matiari, which has given rise to the filing of the instant transfer application.

2. Learned Counsel appearing for the applicant contended that since the applicant and his witnesses have serious life threats from the respondents and specially respondent No.4 who is still an absconder, therefore, the applicant and his witnesses are unable to proceed with the trial of the case and therefore, said case be transferred to the Court of learned Sessions Judge, Jamshoro.

3. Learned Counsel appearing for the respondents contended that no specific allegation has been attributed in the entire application which is general in nature and

therefore, on the basis of such general allegations, the case cannot be transferred at the whim and choice of the applicant. In support of his contention, learned counsel placed reliance on the cases reported as *Alamzeb v. Kamal Nasir and others* (PLD 2004 Supreme Court 362), *Abdul Raoof v. Azizullah and 9 others* (2011 P.Cr.L.J 1637), *Mir Muhammad Anwer and 4 others v. The State and another* (2012 P.Cr.L.J 1314) and *Gulsher Buriro v. The State and 7 others* (2011 YLR 1493).

4. I have heard both the learned counsel and perused the record.

5. From the perusal of the contents of the application, it nowhere reflects that as to on what date or time the applicant was being threatened by the respondents and as to whether the applicant has either approached the local police or has reported the incident to the concerned Court. The entire allegations contained in the application are generic in nature and rather the applicant has also stated that he has lost faith in the trial Court and therefore, the case be transferred to any other Court. I am afraid that for seeking transfer of a case under section 526 Cr.P.C, such conduct of the applicant cannot be accepted, as otherwise it would defeat the smooth functioning of the Courts and every now and then, people would come to this Court for seeking transfer of their cases on such type of bald allegations. The thrust of the arguments of the learned Counsel for the applicant was to the affect that the applicant has serious apprehension of being killed or kidnapped by the respondents, but instead of seeking help from the local police and / or the trial Court, the applicant has chosen to file the instant transfer application without any valid, firm and or justifiable reasons. Such conduct of the applicant does not warrant any interference by this Court and consequently, the instant transfer application does not merit any consideration and therefore, I had dismissed the same by means of a short order dated 07.04.2014 and above are the reasons for such dismissal.

6. However, as and when the applicant feels that there is any danger to the applicant or his witnesses and they are under threat by the respondents, the applicant shall approach the local police including the SHO concerned and the SSP Matiari who shall provide adequate and necessary protection to the applicant in accordance with law and further the applicant may report such incident to the learned trial Court who shall consider such request of the applicant and / or his witnesses before passing any adverse order against the applicant and / or his witnesses.

JUDGE

Tufail