

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Transfer Appln. No.S-67 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection as Flag 'A'.
2. For Katcha Peshi.

05.12.2016.

Mr. Khadim Hussain Khoso, advocate for the applicant.

Mr. Saeed Ahmed Bijarani, advocate for the complainant.

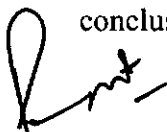
Mr. Khadim Hussain Khooharo, A.P.G.

By means of this Crl. Transfer Application under section 526, Cr.P.C, the applicant/accused seeks transfer of Sessions Case No.223 of 2010 arisen out of Crime/FIR No.69 of 2010 registered at Police Station A-Section, Kandhkot under section 302, 506/2, 114, 148, 149, PPC from the file of learned Additional Sessions Judge, Shikarpur to any other Court for disposal according to law.

Learned counsel for the applicant submits that conduct of the Presiding Judge of the trial Court has remained harsh towards the applicant and time and again he has asked the applicant and other accused persons during trail that they are guilty of the offence, hence the applicant apprehends injustice at the hands of Presiding Judge, therefore, the applicant has no faith in the Presiding Judge of the trial Court.

On the other hand, learned counsel for the respondent/complainant maintains that instant application has been filed by the applicant just to linger on the case pending before the trial Court and no ground for transfer of the case has been made out, but he has no objection if the case is transferred to any other Court for disposal in accordance with law.

Learned A.P.G while referring the comments filed by the Presiding Judge of the trial Court submits that vide order dated 04.07.2016 passed in Crl. Bail Appln. No.374/2014 this Court while disposing of the same directed the trial Court for conclusion of the trial preferably within a period of three months and the accused are




adamant to proceed with the case, therefore, the allegation leveled against the Presiding Judge of the trial Court by the applicant appears to be unjustified.

Heard learned counsel for the parties and perused the material available on record.

The applicant has not referred any particular date on which the learned Presiding Judge of the trial Court issued threats to him and no specific occasion has been referred by the applicant on the basis thereof he can substantiate his assertion for loosing his faith in the learned Presiding Judge; on the contrary, it appears that the Presiding Judge has taken efforts for concluding the trial within a period of three months as per direction of this Court given on 04.07.2016 while disposing of the bail application No.374/2014.

It may be relevant to mention here that the transfer of the case from one Court to another Court cannot be claimed as a matter of right or cannot be granted as a matter of routine and the Court before whom application for transfer is moved has to see whether mistrust shown by the applicant is genuine or otherwise. Besides, while exercising jurisdiction to transfer cases from Courts balance has to be struck in order to ensure that the cases are not transferred mainly on the basis of unfounded and conjectural apprehensions. It may also be relevant to mention here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the onerous, noble and dignified duty they are performing while deciding the cases. They should not be allowed to be harassed unnecessarily by the litigants who merely entertain groundless and baseless apprehensions. In the instant case, no reasonable apprehension exists that the trial Court would not act fairly and impartially in this case, therefore, this transfer application being devoid of merits is dismissed accordingly.


Judge