

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Transfer Application No.S-92 of 2016

(7)

DATE OF
HEARING

12.06.2017.

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objections.
2. For orders on M. A. No.4350/16.
3. For Katcha Peshi.
4. For orders on M. A. No.4351/16.

Mr. Mukhtiar Ahmed Khoso, advocate for applicant.

Mr. Sardar Ali Shah, APG.

By means of this criminal transfer application under Section 526, Cr.P.C, applicant Mohammad Amin Magsi seeks transfer of Criminal Case No.147/2016 (re-State v. Asif Magsi & others) arisen out of Crime/F.I.R No.31/2016 lodged by respondent No.1 at Police Station Bahram, District Kamber-Shahdadkot, under Sections 337-F(v), -F(i), 34, PPC, from the Court of learned Civil Judge & Judicial Magistrate-II, Shahdadkot to any other Court of competent jurisdiction of Karachi City.

The learned Counsel for the applicant submits a peon of learned Sessions Judge, Kamber-Shahdadkot, namely, Ahmed Nawaz son of Mohammad Bux Magsi is close relative of respondent No.1/ complainant, who has clearly declared that as he is serving as peon of learned Sessions Judge, Kamber-Shahdadkot, he will get the applicant and his other relatives convicted in the instant case.

On the other hand, learned APG submits that it does not appeal to a prudent mind that a peon of the Court would influence upon the Presiding Officer, therefore, the prayer for the transfer of aforementioned case appears to be unjustified.

It may be observed here that transfer of case from one Court to another Court cannot be claimed by the applicant as a matter

of right or cannot be granted as a matter of routine and the Court before whom the 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 observe here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the honourous, noble and dignified duty they are performing and while deciding the cases they should not be allowed to be harassed unnecessarily by the litigants to mainly entertain groundless and baseless apprehensions. In the instant case, I am agreed with the learned APG that it is beyond comprehension that a peon would influence the Presiding Officer of the Court during trial or at the time of passing final verdict in the case. Hence, in the instant case no reasonable apprehension exists that the trial Court would not act fairly and impartially, therefore, this transfer application being devoid of merit is dismissed accordingly along with listed applications.



JUDGE