

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

Cr. Transfer Application No.S — 27 of 2021.

DATE

ORDER WITH SIGNATURE OF JUDGE

09.08.2021.

FOR ORDERS ON OFFICE OBJECTION.
FOR HEARING OF MAIN CASE.
FOR HEARING OF M.A.3794/2021.

Mr. Mian Taj Muhammad Keerio Advocate for applicant.
Mr. Nazar Muhammad Memon, Additional P.G. for the State.

NAIMATULLAH PHULPOTO, J.-

Through this transfer application

applicant/complainant Shakir Ali seeks transfer of Sessions Case No.503 of 2020, for offence under section 302 PPC pending before learned Ist-Additional Sessions Judge/MCTC Sanghar, to some other Court mainly on the ground that applicant/complainant has lost confidence.

2. Notice of this application was issued to the respondent No.2 Usama / accused who is presently confined at District Jail Sanghar. He has been served through Superintendent Central Prison but none appeared on his behalf.

3. Mr. Mian Taj Muhammad Keerio learned Advocate for the applicant/complainant mainly contended that behavior of learned trial Judge is highly objectionable. It is further submitted that learned trial Judge is acquittal minded and he has acquitted a number of accused facing trial before his Court. Lastly it is submitted that applicant/complainant has lost confidence and case may be transferred to some other Court.

4. Learned Additional P.G. opposed the transfer application and stated that no specific instance has been quoted and submitted that case cannot be transferred on mere apprehensions.

5. After hearing the learned counsel for the parties I have perused the comments filed by learned trial Judge in which allegations have been denied.

6. In my considered view, no case for transfer of the case from the Court of learned trial Judge to another Court is made out, for the reasons that mere word

of complainant is not sufficient. Not a single instance has been quoted about the conduct of the Presiding Officer, regarding rumors that accused will be acquitted, rumor is no ground for transfer of the case. Learned trial Judge is conducting trial expeditiously as the said Court has been declared as MCTC. Moreover, there are general and vague allegations against the Presiding Officer. The only objective apparently appears to be, not to allow the trial Court to complete the trial expeditiously. Reliance is placed upon the case of **SHAH JEHAN v. THE SPECIAL JUDGE ANTI CORRUPTION AND ANOTHER** [NLR 1993 391]. Relevant portion is reproduced as under:-

“All the above circumstances clearly indicate that the applicant and his counsel, neither have any apprehension in their minds nor the allegations made by them in the application are true. Their only objective appears to be, not to allow the conclusion of the trial.

From the above discussion, I am of the considered view that the applicant has not approached this Court with clean hands and on this ground alone he is not entitled for any relief. Even otherwise, on merits also, no ground is made out for the transfer of the case. This application therefore has no merits and the same is accordingly dismissed.”

7. “A Judge is good, honest, competent, hardworking and upright only if he has decided a case in my favour otherwise he is biased, dishonest and having connivance with other side of the case.” This is the time to curb such voices of the litigants who want to undermine the administration of justice only to achieve their illegal designs.

8. For the above stated reasons, instant transfer application is without merit and same is dismissed.

Let the copy of the order be sent to the trial Court by fax.

JUDGE

A.

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

Cr.Transfer Application No.S — 08 of 2020.

DATE	ORDER WITH SIGNATURE OF JUDGE
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28.09.2020

FOR HEARING OF MAIN CASE

Mr. Ghulamullah Chang Advocate for the applicant/complainant.

Mr. Muhammad Yaseen Khaskheli Advocate for
respondents/accused.

Mr. Shahzado Saleem Nahiyoon, D.P.G. for State.

Complainant Amir Siddique seeks transfer of Sessions Case No.236 of 2018. [State v. Gohar Ali Shah & others] under Section 302, 324 PPC pending before learned Additional Sessions Judge-I / MCTC Sanghar.

Notice of this application was issued against the respondents/accused No.2 to 6 and comments were called from learned trial Judge.

Mr. Ghulamullah Chang learned Advocate for the applicant/complainant has mainly contended that conduct of learned trial Judge is objectionable; applicant/complainant has received information that respondents/accused will be acquitted by the trial Court.

Mr. Muhammad Yaseen Khaskheli learned Advocate appearing for respondents No.2 to 6 has opposed the transfer application mainly on the ground that case proceeds expeditiously and complainant is avoiding to proceed with the case. Regarding rumors that accused will be acquitted, it is argued that rumors are based upon speculations and it is not the ground to transfer the case.

Learned D.P.G. submitted that applicant / complainant has lost confidence, therefore, the case may be transferred to some other Court.

After hearing the learned counsel for the parties I have perused the comments filed by learned Additional Sessions Judge/MCTC Sanghar, in which it is mentioned that case has been scheduled in the terms of EJIP Supreme Court of Pakistan firstly on 03.02.2020 and such Schedule Certificate has been prepared with the consent of learned counsel for the parties. On 19.02.2020 instant case was fixed for proceeding as per Schedule on 18.02.2020 one absconding accused surrendered. Thereafter, on 12.03.2020

applicant/complainant Aamir Siddique filed the transfer application. Case was adjourned to different dates but complainant moved adjournment applications on the ground that he has filed the transfer application. Learned trial Judge has denied the allegations and stated that he is bound to proceed the case expeditiously being MCTC.

In my considered view, no case for transfer of the case from the Court of learned trial Judge to another Court is made out, for the reasons that mere word of complainant is not sufficient. Not a single instance has been quoted about the conduct of the Presiding Officer, regarding rumors that accused will be acquitted, rumors are no ground for transfer of the case. Learned trial Judge is conducting trial expeditiously as the said Court has been declared as MCTC. Moreover, there are general and vague allegations against the Presiding Officer. The only objective appears to be, not to allow the trial Court to complete the trial expeditiously. Reliance is placed upon the case of **SHAH JEHAN v. THE SPECIAL JUDGE ANTI CORRUPTION AND ANOTHER** [NLR 1993 391]. Relevant portion is reproduced as under:-

“All the above circumstances clearly indicate that the applicant and his counsel, neither have any apprehension in their minds nor the allegations made by them in the application are true. Their only objective appears to be, not to allow the conclusion of the trial.

From the above discussion, I am of the considered view that the applicant has not approached this Court with clean hands and on this ground alone he is not entitled for any relief. Even otherwise, on merits also, no ground is made out for the transfer of the case. This application therefore has no merits and the same is accordingly dismissed.”

For the above stated reasons, instant transfer application is without merit and same is dismissed.

Let the copy of the order be sent to the trial Court by fax.

JUDGE

A.