

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Transfer A.No.S- 28 of 2021

Date of hearing	Order with signature of Judge.
-----------------	--------------------------------

For Hearing of Case

- 1.For orders on o/objection.
- 2.For hearing of Main Case.
- 3.For hearing of MA 1857/21.

12-04-2021

Mr. Zuber Ahmed Rajput Advocate for Applicants.
Mr. Khalil Ahmed Maitlo, Deputy P.G for the State.

The applicants/accused by way of instant Criminal Transfer Application under Section 526 Cr.P.C have sought for trial of two special narcotics cases, one arising out of Crime No.12 of 2021, registered at P.S, Naushehro Feroze for offence under Section 9(c) of Control of Narcotics Substance Act, 1997, pending trial in the Court of 1st Additional Sessions Judge (MCTC), Naushehro Feroze and another emanating from Crime No.03 of 2021, registered at P.S, Daulatpur-Shaheed Benazir Abad, for offence under Section 9 (c) of CNS Act, 1997, pending trial in the Court of learned Special Judge, Shaheed Benazir Abad, either by learned trial Court at Naushehro Feroze or trial Court at Shaheed Benazir Abad, mainly for the reasons that though both the cases are emanating from the same transaction, but are being tried by two different Courts, as such in order to avoid conflicting judgments, same may be tried together.

2. Heard learned counsel for the parties and perused the entire material available on record. Admittedly, on perusal of content of both abovementioned FIRs of the special cases sought to be tried together, it is evident that both the cases are emanating from the same transaction but since both the FIRs were registered at two different police stations, as such trial of said cases are pending before two different Courts. In case of Bashir Ahmed v.

Haji Muhammad Ashraf and others (2008 PSC (CrL.) 264), wherein Hon'ble Supreme Court of Pakistan has been pleased to hold as under:

“9. It is well established practice based on a rule of propriety that counter cases should be tried together. The rule of propriety has generally been followed because the rationale is that if the counter cases emanating from the same transaction are tried by two different Courts, they are likely to end up in conflicting judgments and even the appreciation of evidence may be subjected to different criteria. However, this rule of propriety is not inflexible rule and the Court may part with it for the reasons recorded in certain situations. One such case is Muhammad Sadiq supra to which reference has been made by the respondent's learned counsel”.

3. In view of the afore referred circumstances and following the well-recognized practice based on a rule of propriety that cases emanating from the same transaction should be tried together in order to avoid any conflicting judgments, instant CrL Transfer Application stands allowed and the special case arising out of Crime No.12 of 2021, at P.S, Naushehro Feroze for offence under Section 9(c) of Control of Narcotics Substance Act, 1997, pending trial in the Court of learned 1st Additional Sessions Judge (MCTC), Naushehro Feroze is hereby withdrawn from the said Court and transferred to the Court of learned Special Judge, Shaheed Benazir Abad, seized of the special case, culminating out of Crime No.03 of 2021, registered at P.S, Daulatpur-Shaheed Benazir Abad, for offence under Section 9 (c) of CNS Act, 1997, for disposal in accordance with law.

JUDGE