

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Transfer Appln. No. S – 122 of 2020

Date	Order with Signature of Hon'ble Judge
------	---------------------------------------

For hearing of main case

Letter issued for comments

Notice issued

18.12.2020

Mr. Dilawar Ali Jatoi Advocate for the Applicant
Mr. Khalil Ahmed Maitlo, DPG for the State

ORDER

Aftab Ahmed Gorar, J; Through instant Criminal Transfer Application, the applicant/accused seeks transfer of Sessions Case No.37/2018 Re- State vs. Zulfiqar from the file of learned Additional Sessions Judge (Hudood) Sukkur to any other Court of law, having jurisdiction in District Sukkur, on the ground of apprehension that the applicant/accused would not get justice as the behavior of the learned Presiding Officer of the trial Court is not good towards him, as the applicant has been threatened for awarding capital punishment.

2. It is contended by learned counsel for the applicant/accused that the attitude of learned Presiding Officer of the trial Judge is harsh towards the applicant, though he has given his opinion in advance that he would award severe punishment to him; that the learned trial Judge in absence of the defence could have recorded the examination-in-chief of the witnesses; that the applicant/accused has great apprehension that justice will not be done

with him, if the case proceeded by the said Presiding Officer of the trial Court, hence the applicant/accused has lost faith upon the learned trial Judge. He lastly prayed that it would be convenient for the applicant/accused, if the case may be transferred to any other Court of law having jurisdiction in District Sukkur for trial.

3. Learned DPG for the State opposed the transfer application by contending that the applicant/accused is avoiding to proceed with the case and has sought frequent adjournments just to delay the trial.

4. I have heard the learned counsel for the applicant/accused as well as learned DPG for the State and perused the comments furnished by the learned trial Judge. The case is pending trial since 2018 and the charge against the accused has been framed, the examination-in-chief of the complainant and the witnesses have been recorded, whereas, the complainant and PWs are regularly attending the trial Court for their cross-examination and the applicant/accused is avoiding to proceed with the matter and is seeking unnecessary adjournments on one or the other pretext in order to prolong the trial. Suffice it to say, at this stage mere apprehension in the mind of the accused that he would not get justice at the hands of the Presiding Officer of the trial Court, is no ground for transfer of a criminal case. Apprehension must be reasonable and the reasonableness is to be decided at the peculiar facts and circumstances of each case. No cogent reason or proof has been placed on record by learned counsel for the applicant/accused to show any malafide on the part of

learned Presiding Officer of the trial Court, hence the contentions of learned counsel for the applicant/accused are totally misconceived and contrary to law. Accordingly, the instant Criminal Transfer Application is dismissed.

Judge

ARBROHI