

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Transfer App. No. S - 64 of 2022

Date of hearing	Order with signature of Judge
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For hearing of main case

28.11.2022

Applicants present in person.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

1. This Criminal Transfer Application has been filed by the applicants seeking transfer of Sessions Case No.840 of 2017 (*Re: The State v. Manzoor Hussain Shahwani & others*), arising out of Crime No.245 of 2017 registered at Police Station 'A' Section, District Khairpur for offences under Sections 324, 337-H(2), 337-L(2), 506/2, 147, 148, 149, P.P.C., from the Court of learned Additional Sessions Judge-IV, Khairpur to any other Court.
2. It is contention of the applicants that earlier they moved Criminal Miscellaneous Application No. S-195 of 2022, which was disposed of by this Court vide order dated 06.06.2022 directing the trial Court to decide the application of the applicants filed under Section 265-K, Cr.P.C. within a period of thirty (30) days from the date of order; however, the said order has not been complied with. It is also contention of the applicants that on the instance of learned trial Judge, an F.I.R. of a lady bearing Crime No.168 of 2022 of Police Station Shaheed Murtaza Mirani, District Khairpur has been registered against them.
3. On the last date of hearing, the applicant filed certified copy of case diaries of Sessions Case No.840 of 2017 pending before the trial Court. Perusal of the same reflects that on 23.07.2022, learned Presiding Officer was on summer vacation and on 23.08.2022, applicants/accused Manzoor Hussain and Ghulam Murtaza were called absent without any intimation; thereafter, on three consecutive dates of hearing viz. 20.09.2022, 12.10.2022 and 10.11.2022, applicant/accused Ghulam Murtaza was called absent and applicant/accused Manzoor Hussain submitted application for excusing his absence.

4. The above position shows that either both of the applicants or one of them remained absent from the trial Court, and apparently, the application under Section 265-K, Cr.P.C. has not been decided by the trial Court due to the conduct of the applicants of remaining absent on each and every date of hearing. So far the lodging of F.I.R. by the lady on the instance of the Presiding Officer of the trial Court is concerned, there are mere words without any supporting evidence that the alleged F.I.R. No.168 of 2022 of Police Station Shaheed Murtaza Mirani, District Khairpur has been lodged by the complainant/lady on the instance of the Presiding Officer of the trial Court.

5. It may be observed here that transfer of case from one to another Court cannot be claimed by the applicant(s) 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 observed 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.

6. For the foregoing facts and reasons, no reasonable ground is made out for transfer of the case; therefore, this transfer application being devoid of any merit is **dismissed**, with no order as to costs.

Abdul Basit

J U D G E