

Order Sheet

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Transfer App. No. S - 01 of 2023

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

28.04.2023

M/s Naeemuddin Chachar and Abdul Jabbar Siyal, Advocates for the applicant.

Mr. Muhammad Suleman Kalhoro, Advocate for respondents No.2 and 3.

Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General.

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ZAFAR AHMED RAJPUT, J. - Through instant Criminal Transfer Application, the applicant/complainant seeks transfer of Sessions Case No.35/2021 (*State versus Parwaiz Kalhoro and others*), arisen out of Crime No.254/2021 registered at Police Station Moro, District Naushahro Feroze under Sections 302, 149, P.P.C. from the Court of Additional Sessions Judge, Moro to Model Criminal Trial Court ('M.C.T.C.'), Naushahro Feroze. Earlier to this application, the applicant filed Criminal Transfer Application No.36 of 2022, which was dismissed by the learned Sessions Judge, Naushahro Feroze vide order dated 20.12.2022.

2. Heard, record perused.

3. It appears that specific prayer for transfer of the subject case to M.C.T.C., Naushahro Feroze was not made before the learned Sessions Judge, Naushahro Feroze in Criminal Transfer Application No.36 of 2022. Besides, the case of the applicant/complainant is though a murder case but not so old that same may be transferred to M.C.T.C. under Notification dated 18<sup>th</sup> March, 2019 issued by the Registrar of this Court

pursuant to decision made by National Judicial (Policy Making) Committee in its meeting held on 11.03.2019.

4. The other ground agitated by the learned counsel for the applicant is that of issuance of murderous threats to the applicant by the respondents/accused in case the applicant does not withdraw from the case, which has rightly been entertained by the learned Sessions Judge, Naushahro Feroze in its order dated 20.12.2022 that for the redressal of such apprehension, the applicant is at liberty to file appropriate application before the trial Court.

5. So far the next ground agitated by the learned counsel for the applicant with regard to mistrust shown on the learned Presiding Officer, it may be relevant to observe the dictum laid down by the Hon'ble Supreme Court in the case of Akhtar Ali versus The State reported as **2020 SCMR 1243** that:

*“ 2. It is fundamentally important for the peaceful preservation of any society that its Judges attend call of their office fearlessly with dignity, respect and independence so as to sit on the judgment between the contestants, regardless of their status or station, without let or hindrance. A society cannot countenance obstruction or interference with the administration of justice without incurring disastrous consequences, therefore, to ensure freedom to a Judge within the remits of law is a duty cast upon all and sundry without exception and immunity.”*

6. It is an admitted position that the F.I.R. has been lodged at Police Station Moro, both parties reside within the territorial limits of Police Station Moro and the subject case is under trial before the Additional

Sessions Judge, Moro. There is only one Court of Additional Sessions Judge at Moro and in case the subject case is withdrawn from that Court and transferred to any other Court at Naushahro Feroze, the same will likely to cause inconvenience to the parties and witnesses.

7. For the forgoing facts and reasons, this Criminal Transfer Application being devoid of merit is **dismissed** accordingly.

Abdul Basit

J U D G E