

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Transfer Application No.S-31 of 2023

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objections.
For hearing of main case.
For hearing of MA No. 5037 of 2023

02.08.2023.

Applicant No. 1 in person

Mr. Saeed Shams Advocate for the Applicant No. 2

Ms. Qurut ul Ain Advocate for the Respondent No. 1

Ms. Safa Hisbani Assistant Prosecutor General, Sindh.

The Applicants maintain this Application under Section 526 of the Code of Criminal Procedure, 1898 seeking the transfer of the following cases that are admittedly all connected and which are conducted in respect of the offence and before the Courts as indicated below:

S No.	Criminal Case and Section	Jurisdiction	Complainant	Court in which Case is Pending
1.	FIR 189 of 2002 under Section 454/457/380 PPC	PS-B Section Latifabad Hyderabad	Respondent No. 1	JM-XI Hyderabad
2.	FIR 190 of 2022 off shoot of FIR 189 of 2002 Under Section 23/ASAA	PS-B Section Latifabad Hyderabad	ASI Imtiax Ahmed Siddiqui	Additional Session Judge- VIII Hyderabad
3.	Direct Complaint No. 27 of 2022 under Section 365, 265 , 386, 392, 450, 45. 506-2337 F-1	PS-B Section Latifabad Hyderabad and PSA Section Latifabad Hyderabad	Applicant No. 1 Dr. Itefaq Hussain Victim Muhammad Zain Ameen	Additional Session Judge- VII Hyderabad

The Applicant No. 1 and Counsel for the Applicant No. 2 states that each of the matters listed above are all interconnected and while separate trials for each of the case are mandated it would be appropriate if all the cases are heard by a single Judge and not by three separate Judges.

Counsel for the Respondent No. 1 has concedes to this position but requests that the matter may be transferred to the VIIIth Additional Session Judge Hyderabad. Learned APG has stated that she has no objection to the grant of this Application. In response to the request of the Counsel for the Respondent No. 1, Counsel for the Applicant No. 2 states that the reason why the Counsel for the Respondent No. 1 is seeking the transfer of the cases to the VIIIth Additional Session Judge Hyderabad is on account of the fact that an unfortunate incident had occurred as between him and the VIIIth Additional Session Judge Hyderabad which had unfortunately led to him having to file a complaint against the VIIIth Additional Session Judge Hyderabad. He stated that he while he would prefer that the matter went to any other court but he will abide by whatever decision this court makes.

I have heard the Applicant No. 1, Counsel for the Applicant No. 2, Counsel for the Respondent No. 1 and the Learned APG and have perused the record. As it is conceded that each of these matters are interconnected it would be proper if they were all heard by the same court. Keeping in mind the contentions of each of the parties, I am mindful of the request that has been made by both the Counsel for the Applicant No. 2 and the Counsel for the Respondent No. 1 and direct that FIR 189 of 2002 under Section 454/457/380 PPC and FIR 190 of 2022 under Section 23/ASAA should both be transferred to the court of the VIIth Additional Session Judge Hyderabad and tried by that Court. In doing so I would clarify that the transfer of these two cases to the court of the VIIth Additional Session Judge Hyderabad is being done in the interests of justice and should in no manner be construed as prejudicing the presiding officer in the court of the VIIIth Additional Session Judge Hyderabad. The Main Application stands granted in the above terms and MA No. 5037 of 2023 is dismissed as having been rendered infructuous.

JUDGE