

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

## Cr. Transfer Application No.S-45 of 2023

[Vinod Kumar versus Govind @ Raja & Ors]

**Applicant** : **Through Mian Taj Muhammad Keerio advocate**  
**Respondents** : **Through Syed Tarique Ahmed Shah advocate**  
**State** : **Through Mr. Shahid Ahmed Sheikh Additional P.G**  
**Date of hearing** : **15.09.2023**  
**Date of Order** : **15.09.2023**

## **ORDER**

**MAHMOOD A. KHAN J:-** To this transfer application notices were ordered on 18.08.2023, as the learned counsel for the applicant had contended that the subject case was assigned to present trial Court on account of the earlier Presiding Officer (who had recorded the evidence) having gone to perform Hujj and now the said Presiding Officer having returned. Today learned counsel for the private respondents has submitted case diaries and provided copies thereof to other side and before the same on 11.09.2023 submitted statement alongwith annexures and certified copies of orders passed in the matter.

2. Learned counsel for the applicant contended that this application has been filed, as the earlier learned Judge, who was proceeding with the matter and recorded the evidence has returned from Hujj and he being the most senior Judicial Officer may be preferred; that the said Court is working as Model Criminal Trial Court and almost all the criminal cases are being proceeded with by the said Court; that charge was framed by the said earlier learned Presiding Officer and that witnesses have appeared before him. In support of his arguments he relied upon the reported cases of ALAM KHAN and 4 others versus The STATE [2005 YLR 1848] and ALI MOHAMMAD and 7 others versus The STATE [2016 YLR 1139].

3. Whereas learned counsel for the private respondents contended that had the transfer been called for required judgment to be given by the Presiding Officer, who had recorded the evidence, he would not have opposed the same, but that is not the case; that the charge was subsequently amended and the witnesses were reexamined by the present trial Court as such no distinction whatsoever is made out and transfer of case at this stage will further delay the proceedings; that despite the transfer and proceedings before the Model Criminal Trial Court, from the date of arrest the private respondents are behind the bar. He further states that transfer application is amounts to review of the order as passed by this Court on 16.06.2023 in Criminal Bail Application No.S-459 of 2023 and Criminal Revision Application No.S-04 of

2023, whereby the matter of bail of the private respondents was also got deferred on that very basis and as such the transfer application is liable to be dismissed. He relied upon the reported cases of AMIR ALTAS KHAN and another versus The STATE [2002 SCMR 709] and ALTAF HUSSAIN versus The STATE [PLD 2014 Sindh 287].

4. Learned Additional P.G states that the applicant in the matter is approbating and reprobating by his conduct, he had earlier conceded to transfer at the bail stage and now when the whole process of criminal judicial exercise is at the fag end same is being delayed and attempted to be stretched by filing this transfer application.

5. Heard the learned counsel for the parties and have gone through the record. Prima purpose of applicant (atleast as claimed therein) is to proceed with the case for conclusion as no allegations are present against any Presiding Officer. In the said circumstance while disposing of this Criminal Transfer Application as not maintainable on account of having filed at the final stage with no allegation and evidence recorded by the present Presiding officer after altering the charge as such having no merits. As such the transfer otherwise not found required, it is directed that present trial Court shall proceed with the case for conclusion as soon as possible and only if so required at best granting of any shortest adjournments, and parties are directed to conclude the same at the earliest.

Transfer application stands dismissed and disposed of accordingly.

**JUDGE**

Sajjad Ali Jessar