

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

## Cr. Transfer App. No. S – 16 of 2024

*(Muhammad Farooque Shaikh versus Inspector Aslam Shaikh & others)*

## Cr. Transfer App. No. S – 17 of 2024

*(Muhammad Farooque Shaikh versus Inspector Jinsar Soomro & others)*

## Cr. Transfer App. No. S – 18 of 2024

*(Muhammad Farooque Shaikh versus Inspector Muhammad Sadiq Lund & others)*

## Cr. Transfer App. No. S – 20 of 2024

*(Muhammad Farooque Shaikh versus Inspector Muhammad Sanwal Ghoto & others)*

Date of hearing & order : 19.04.2024

Mr. Naeemuddin Z. Kasimi, Advocate for applicant.

Mr. Razzaque Rahim Sheikh, Advocate for co-accused, who has also filed power in Cr. Transfer App. No. S-17 of 2024 and two statements.

Mr. Aftab Ahmed Shar, Additional Prosecutor General along with Munawar Ali Naich (Circle Officer, ACE, Sukkur), Deedar Hussain Abbasi (SIP, ACE, Sukkur) and Kursheed Ahmed Memon (ASI, ACE, Sukkur).

## ORDER

**Muhammad Iqbal Kalhoro, J. –** These four (04) applications filed for transfer of the cases by applicant, who is accused in different FIRs bearing Crime Nos.01 & 02 of 2023 of Police Station Anti-Corruption Establishment, Sukkur, Crime No.01 of 2023 of Police Station Anti-Corruption Establishment, Shaheed Benazirabad and Crime No.01 of 2023 of Police Station Anti-Corruption Establishment, Ghotki, are being disposed of. The trials emerging from such FIRs are pending before Special Judge, Anti-Corruption (Provincial), Sukkur, and applicant is seeking their transfer to Special Judge, Anti-Corruption (Provincial), Karachi mainly on the ground that he is a resident of Karachi and four (04) FIRs emanating from the same enquiry, pursuant to which present FIRs have been registered, are pending before Special Judge, Anti-Corruption (Provincial), Karachi. The witnesses, who are to appear in these four cases to give evidence, are actually residents of Karachi, and it would be convenient for them to attend the Court at Karachi instead of travelling all the way down from there to Sukkur for giving evidence.

3. On the contrary, learned Counsel for co-accused, learned Additional Prosecutor General and officials of Anti-Corruption Establishment have opposed these applications on the grounds that although the enquiry was the same, but the occurrence, its date and place in all the cases are different than the ones registered at Karachi, and there is no perceivable nexus between the

cases registered at Sukkur and Karachi to order them to be convened at one and the same Court at Karachi. Further, the official witnesses, who have conducted investigation etc., are residents of Sukkur, and it would be inconvenient for them to travel from Sukkur to Karachi, besides it would put extra burden on the government exchequer to bear their expenses for such purpose.

4. I have heard both the parties and perused material available on record. The grounds taken up by the applicant for transfer of these four (04) cases from Sukkur to Karachi are not tangible or sustainable in law. Mere fact that applicant himself and some of the witnesses happen to hail from Karachi would not justify transfer of the cases from Sukkur to Karachi. The investigation was conducted by the Anti-Corruption Establishment Police at Sukkur, and *prima facie* the alleged offence and its consequences occurred in District Sukkur. The enquiry, which gave birth to registration of different FIRs against applicant and others, was conducted in general terms to find out real facts behind the scam. But it was essentially the investigation which *prima facie* found the applicant guilty of the offence committed by him at different places at the relevant time, and that led to submission of the Challan, on the basis of which the Special Court at Sukkur has already taken cognizance of the offence. The law does not envisage convenience of the accused as a valid ground for transfer of the case. Transfer of a case from Sukkur to Karachi would need exceptional circumstances to justify it, which palpably are lacking in the cases in hand.

5. In addition to above, if the cases are transferred, in my view, it would put extra burden on the government exchequer to bear TA/DA of the official witnesses travelling from Sukkur to Karachi for giving evidence, which cannot be the scheme of law. The places of commission of such offences and dates of such offence are reportedly quite different to the ones registered at Karachi. Apparently there is no link between them to warrant their transfer to one and the same place. Therefore, even on this ground, there is no justification to accede to the request of applicant and transfer these cases from Sukkur to Karachi.

6. These applications, therefore, are meritless and accordingly **dismissed**. Office to place a signed copy of this order in the captioned connected matters.

J U D G E