

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

Criminal Transfer Appln. No. S-37 of 2020

Date _____ Order with signature of Judge _____

Mir Mumtaz Ali Bughio, advocate for the applicant/complainant.

Mr. Ali Madad Arijo, advocate for the respondents No.1 to 3/ accused.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Date of hearing: 26-10-2020

Date of order: 26-10-2020

ORDER

NAIMATULLAH PHULPOTO, J.- Through this criminal transfer application, the applicant/complainant Zamir Ali Arijo seeks transfer of Sessions Case No. 214/2016, re: State V/S Nisar Areejo & others, pending before the court of learned VI-Additional Sessions Judge, Larkana to some other court.

Notice was issued to accused and comments were called from learned trial Judge.

Learned counsel for the applicant/complainant contended that the learned trial Judge has acquitted co-accused Siraj Ali. It is further contended that co-accused Abdul Ghaffar and Nisar Ali Areejo have been granted bail by trial Judge; that the applicant/complainant has lost his confidence on learned VI-Additional Sessions Judge, Larkana. Lastly it is submitted that case may be transferred to some other court for fair trial.

4. Learned Additional Prosecutor General assisted by advocate for respondents/accused has opposed the transfer application. It is submitted that the case is fixed for final arguments. It is further submitted that co-accused Siraj Ali was acquitted by another Presiding Officer, namely, Mr. Ilyas Memon, so far as the grant of bail to co-accused Abdul Ghaffar and Nisar Ali is concerned, it is submitted that it is not the sufficient ground to transfer the case.

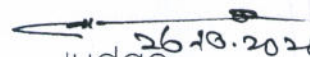
5. I have heard the learned counsel for the parties and perused the comments of learned trial Judge, in which the allegations have been denied.

6. It appears that the trial of case has been concluded and case is fixed for final arguments. As regards to the submissions of the learned counsel for the applicant/complainant that co-accused Siraj Ali has been acquitted by the present presiding officer but the learned Additional Prosecutor General as well as learned counsel for the respondents/accused informed that accused Siraj Ali has been acquitted by Mr. Ilyas Memon, Additional Sessions Judge, who has already been transferred, so far the grant of bail to the co-accused Abdul Ghaffar and Nisar Ali by the present trial Judge is concerned, the learned advocate for the applicant/complainant submits that he has filed an application for cancellation of the bail before this court, it means the legal procedure has already been adopted by the learned counsel for the applicant/complainant. It is settled law that on the basis of adverse orders, if any, no transfer application can be filed. Allegations leveled against presiding officer are generalized in nature and without legal substance.

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7. The case cannot be transferred from one court to another court, on mere apprehensions or at the choice of any body.

8. Accordingly, this criminal transfer application is dismissed. Trial court is directed to decide the case expeditiously. Let copy of order be sent to the trial court by fax.


Judge 26.10.2020.

Abdul Salam/P.A

