

FORM No. HCJD/C-121.
ORDER SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Case No. Crl. Misc. No. 80981-T/2024

Miss Shabnam Riaz **Versus** Naila Karim and another

S.No.of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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01) 24.12.2024 Mian Muhammad Awais, Advocate with the petitioner.

Through this application filed under Section 526 Cr.P.C., the applicant seeks transfer of the trial of private complaint titled '*Shabnam Riaz vs. Naila Karim*' offences under Section 499, 500 & 501 PPC from the court of Mr. Majid Waqar Aheer, Additional Sessions Judge, Lahore to any other court of competent jurisdiction.

2. Arguments heard; record perused.
3. The aforementioned private complaint was filed as far back as the year 2020. Respondent No. 1/accused was summoned to stand trial on 02.12.2020 and was formally indicted on 29.07.2021. However, the trial has yet to be concluded, having been delayed repeatedly for one reason or another. This transfer application has been filed mainly on the grounds that the learned trial judge has allegedly become prejudiced and biased against the applicant, raising concerns that a just and impartial decision may not be possible.
4. The transfer of a case from one court to another on the grounds of alleged bias and prejudice against a judicial officer is a matter of critical significance. Such accusations directly challenge the integrity and impartiality of the judge, therefore, the same must not be treated lightly, as unfounded allegations can undermine public confidence in the judicial system and unjustly harm the reputation of judicial officers without cause. It has regrettably become a prevalent trend to levy baseless allegations against judges, undermining the image,

dignity, and honor of the judiciary in the eyes of the public at large. Such practices must be firmly suppressed and addressed with resolute measures to preserve the sanctity of judicial institutions.

5. The core principle governing the acceptance of a transfer application is the assurance of a fair trial, as enshrined in Article 10-A of The Constitution of the Islamic Republic of Pakistan, 1973. A free and fair trial is a *sine qua non* of our criminal justice system. The guarantee of a fair trial is the foremost imperative in the administration of justice and serves as the central criterion for the court's consideration when evaluating a motion for transfer of a case. For the transfer of a criminal case, the party must demonstrate a reasonable apprehension that justice will not be served. A fundamental principle of the justice system is that it must not only be done but also be seen to be done. The apprehension of not receiving a fair and impartial inquiry or trial must be reasonable and grounded in facts, rather than being speculative or based on conjecture and surmise. The proceedings pending before one competent court should not be transferred to another court merely on bald assertions or allegations of any of the parties unless the same are supported by strong, cogent reasons and convincing evidence.

6. The bias in a judge must be demonstrated as a fact, not merely as an opinion. A real likelihood of bias must be established, grounded in personal prejudice so significant that it impairs the judge's ability to act impartially in the specific case. The Supreme Court of Pakistan has addressed the issue of transferring cases based on allegations of judicial bias. In the case titled "Ms. BENAZIR BHUTTO vs. THE PRESIDENT OF PAKISTAN and another" (1992 SCMR 140), the Court emphasized that mere allegations of bias or prejudice against a judge are insufficient grounds for transferring a case. The Court held that such allegations must be substantiated with clear and credible evidence demonstrating a reasonable apprehension of bias to warrant a transfer.

7. The apprehension, foreseen by the applicant, is neither plausible nor substantiated through any material/evidence. Nothing has been presented on the record to substantiate that the trial judge harbors any bias or prejudice against the applicant, nor is there any indication that he has revealed a predisposition to decide against her. The grounds presented by the applicant fail to establish any reasonable apprehension of being denied a fair trial, as they lack sufficient merit to raise concern in the mind of a prudent and reasonable person. The allegations appear to be much ado about nothing, lacking any credible foundation. Without clear evidence/material, such claims do little more than cast unwarranted aspersions on the impartiality of the trial judge, an act that is both baseless and deeply unwarranted.

8. For what has been discussed above, the instant transfer application having no force is **dismissed** in *limine*. However, the trial court is directed to ensure a fair, transparent, and expeditious conclusion of the trial being an old matter, preferably within three months, in strict accordance with the law and without any fear or favor. Compliance report in this regard shall be filed through Deputy Registrar (Judicial) of this Court.

(Ali Zia Bajwa)
Judge

Approved for Reporting

Judge

The order was pronounced and dictated on 24.12.2024 and after the completion, it was signed on 30.12.2024.

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