

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO.163 OF 2020**

(Against the order of the Lahore High Court, Lahore dated  
28.01.2020 passed in Crl. Misc. No.49574-TA of 2019)

Muhammad Sultan :  
... **Petitioner**

**Versus**

Muhammad Raza & others :  
... **Respondents**

For the Petitioner : Chaudhary Abdul Khalid Thind, ASC  
Syed Razaqat Hussain Shah, AOR

For the (State) : N.R

Date of Hearing : 12.06.2020

**JUDGMENT**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J:-** *Criminal petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been filed, seeking leave to appeal against the order dated 28.01.2020 of Lahore High Court, Lahore in Crl. Miscellaneous No.49574-TA/2019 in the interest of safe administration of criminal justice.*

2. *The facts necessitated to file instant petition are that petitioner lodged a “complaint” against the respondents titled as:-*

**“Muhammad Sultan vs, Sabir Hussain and 14 others”**

*before the learned Addl: Sessions Judge, Tala Gang, District Chakwal. The said “complaint” was filed with the allegation of extra-judicial killing of son of the petitioner by the respondents who are police officials under section 302/364/109/149 PPC read with section 156 of Police Order 2002. The learned trial court took the cognizance of the offence and as such*

*issued process against the respondents. During pendency of the aforesaid “complaint”, the respondents moved an application before Lahore High Court, Lahore under section 526/561-A Cr.P.C with a prayer to transfer the trial of said “complaint” from the court of learned Addl: Sessions Judge, Tala Gang to any other court of competent jurisdiction at Lahore. The said application was adjudicated and it was allowed by a Single Bench of High Court vide order dated 28.01.2020. The learned Single Bench ordered to withdraw the trial of the said “complaint” from the court of learned Addl: Sessions Judge, Tala Gang, to be entrusted to learned Addl: Sessions Judge-I, Lahore.*

3. *Perusal of the “complaint” lodged by the petitioner discloses that the petitioner who himself is resident of District Sargodha was having close ties with the respondent No.1 however the relations became strained due to reasons substantiated in the aforesaid “complaint”. As per allegations contained in “complaint”, it is alleged that on 26.06.2013 at about 12:00 (midnight), two sons of the petitioner namely Muhammad Nasir and Muhammad Tariq were taken into custody by a raiding party comprises of police officials arrayed as respondents No.1 to 14 from Chak No.17 North, Tehsil Bhalwal District Sargodha. Muhammad Asif, third son of the petitioner was also taken into custody by the respondents on 26.06.2013 at about “Fajr Wala” from the precincts of village Malikwal adjacent to Tala Gang. In this connection, a Writ Petition No.17016/2013 was filed before Lahore High Court, Lahore. All three sons of the petitioner were allegedly kept in Police Station Defence—B, Lahore. During the period of their detention, son of the petitioner namely Muhammad Asif was separated from others thereafter he was taken to an unknown place where he was done to death while causing firearm injuries on various part of his body. The allegation further discloses that the death of Muhammad Asif*

*was result of conspiracy hatched by respondent No.1 in collusion with respondent No.6. In this connection, a case bearing FIR No.311/2013 dated 30.06.2013 offence under section 392 PPC was also got registered with Police Station Defence—B Lahore at the instance of respondents.*

4. *While opening his address at the very outset, learned counsel for the petitioner argued that the order impugned before this Court is bad, illegal hence not sustainable in the eyes of law. Further contends that the occurrence had initiated the moment two sons of the petitioner were taken into custody from village Chak No.17 North Tehsil Bhalwal whereas the third son of the petitioner was also taken into custody from village Malikwal adjacent to Tehsil Tala Gang District Chakwal. Contends that to assume jurisdiction for the purpose of trial, it is the basic law that it commence with the initiation of commission of an offence hence, this aspect was totally ignored by High Court while passing the order of transfer of the trial of the “complaint” from learned Addl: Sessions Judge Tala Gang to learned Addl: Sessions Judge-I, Lahore. The learned counsel for the petitioner has shown serious apprehension to the safety and security of the petitioner while pursuing this case at Lahore especially when all the respondents are police officials and they are also posted over there. The anxiety of the learned counsel has further extended that he would not avail justice in the given circumstances.*

5. *We have heard the learned counsel and gone through the record.*

6. *There is no denial to this fact that the death of son of the petitioner was reported within the local limits of Police Station Defence—B, Lahore, and in this regard, a case bearing FIR No.311/2013 dated 30.06.2013 offence under section 392 PPC was also registered with said police station. Post-mortem examination of son of the petitioner was*

conducted at Lahore. In this connection, all the witnesses are also residents of Lahore. As per version of the prosecution, it is mentioned in the "complaint" that the sons of the petitioner were allegedly abducted from two distinct places on two different occasions i.e. on 26.06.2013 and 29.06.2013 respectively. However, they were kept in illegal confinement in Police Station Defence—B at Lahore. There is no denial to this fact from the prosecution version that son of the petitioner was allegedly done to death on the following day by a brutal act of the respondents. A constitutional petition was filed however order of the same was not placed on the record. We have noticed with concern that despite of a serious allegation of extra-judicial killing against the respondent, the petitioner adopted the recourse of law while filing "complaint" before the trial court with inordinate delay of more than three years.

7. A legal question has been raised qua the jurisdiction of the court and venue of trial as per law. Chapter XV Part VI of the Criminal Procedure Code deals with "Jurisdiction of the Criminal Courts in Inquiry and Trials". Section 177 of the Code of Criminal Procedure relates to general principle of jurisdiction & venue of trial which is reproduced as under: -

**"177. Ordinary place of inquiry and trial.** Every offence shall ordinary be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed".

The language of the said provision is explicit in its context hardly leaving any ambiguity qua the interpretation with reference to jurisdiction and venue of the trial in ordinary circumstances however this principle has certain exceptions which are established from the bare reading of provision of section 179 & 180 Cr.P.C. To evaluate the exceptions of the general principle qua jurisdiction and venue of trial, provision of section 179 Cr.P.C is reproduced as under: -

***“179. Accused triable in district where act is done or where consequences ensues. When a person is accused of the commission of any offence by reason of anything which had been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.”***

8. *Bare perusal of the language of the aforesaid provision depicts that if there is any departure from the general principle qua jurisdiction and venue of trial, two aspects are to be evaluated for the proper determination such as: -*

- i. Commission of an offence.*
- ii. Commission of an act and other consequences ensued.*

*From the careful perusal of the language of the aforesaid provision, it is crystal clear that this provision has extended the limits of venue while classifying the principles to assume jurisdiction to take cognizance of an offence for the purpose of trial. We have observed that in the instant case, the controversy is between the parties relating to the venue of the trial. The prosecution itself is not certain about it because from the perusal of the “complaint”, the allegation of abduction had taken place from two distinct places whereas the jurisdiction and venue has been assailed by the prosecution at Tala Gang which itself creates doubt qua the seriousness of the prosecution. As far as the place where the son of the petitioner was allegedly done to death there is no ambiguity that the offence of alleged murder of son of petitioner was committed at Lahore within the local limits of Police Station Defence—B Lahore. Post-mortem examination of son of the petitioner was also conducted at Lahore whereas the witnesses mentioned in the calendar of witnesses are residents of Lahore. All these facts are fully covered by the second part of section 179 Cr.P.C coming within the ambit of “ensued consequences”. This aspect was never denied by either of the party. We when evaluated*

*the facts and circumstances brought before us and juxtaposed them on the judicial parlance, we are of the considered view that impugned order by learned Single Bench of High Court was passed in its true perspective squarely in the spirit of law of land, therefore, the transfer of trial of “complaint” and entrusting the same to the court of learned Addl: Sessions Judge-I, Lahore was well within the parameter of the law hence, needs no exception. This petition is devoid of any legal force, therefore, the same is **dismissed**.*

9. *Before parting with the order, we have observed that the “complaint” was lodged way back on 12.11.2016, hence considerable time has already elapsed, therefore, we cannot loose sight of this aspect hence, we direct the learned trial court to expedite the proceeding before it and decide the lis preferably within three months from receipt of the order on merits with independent application of mind without being influenced by any observation of this Court.*

10. *The Senior Superintendent of Police (Operation), Lahore is directed to provide adequate security to the petitioner during trial.*

Judge

Judge

Judge

Islamabad.  
12.06.2020  
Approved for reporting.  
Syed Rashid Maqsood