Abduction not proved
Rape Not proved
Murder not proved
Demand not proved

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# IN THE HIGH COURT OF SINDH, KARACHI

*Present:*
*Mr. Justice Mohammad Karim Khan Agha*
*Mr. Justice Zulfiqar Ali Sangi,*

**SPL. CRIMINAL A.T APPEAL NO.174 OF 2021.**

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| **Appellant:** | **1. Abid S/o. Nazir Ahmed**<br>**2. Imran Ali S/o. Ali Hassan,**<br>**3. Sher Muhammad @ Nana S/o. Shabir Ahmed through Mr. Wazir Hussain Khoso, Advocate.** |
| **Respondent:** | **The State through Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh.** |
| **Date of hearing:** | **07.11.2022.** |
| **Date of Announcement:** | **14.11.2022.** |

## JUDGMENT

**MOHAMMAD KARIM KHAN AGHA, J:-** The appellants Abid S/o Nazir Ahmed, Imran Ali S/o. Ali Hassan and Sher Muhammad @ Nana S/o. Shabir Ahmed have preferred these appeals against the judgment dated 21.10.2021 passed by Learned Judge, Anti-Terrorism Court No.I, Karachi in Special Case No.A-336 of 2015 arising out of Crime No.285 of 2015 U/s. 302/363/365-A/376-II/34 PPC R/w. section 7 of ATA 1997 registered at P.S. Sachal, Karachi whereby all the appellants were convicted u/s. 265-H(2) Cr.P.C. and sentenced for the offence punishable u/s. 7(1)(a) of Anti-Terrorism Act, 1997 to undergo R.I. for life and fine of Rs.100,000/- each and in default in payment of fine they were ordered to suffer S.I. for six months more. They were also convicted and sentenced for the offence punishable u/s. 302(b) PPC to undergo R.I. for life with order to pay compensation of Rs.100,000/- each u/s. 544-A Cr.P.C. to the heirs of the deceased baby girl and in default in payment of compensation they were ordered to suffer S.I. for six months more. The appellants were also convicted and sentenced for the offence punishable u/s. 365-A PPC to undergo R.I. for life and ordered for the forfeiture of their properties. The appellants were further convicted for the offence punishable u/s. 376(ii)

PPC and sentenced to undergo Imprisonment for life. All the sentences were ordered to be run concurrently. The benefit of section 382(b) Cr.P.C. was also extended to the appellants.

2. The facts of the prosecution case are that the above said FIR was lodged on the basis of statement u/s. 154 Cr.P.C. of the complainant Zahid Mehmood Arain son of Abdul Shakoor Arain at police station Sachal, Karachi, wherein it is alleged that he resides on the address given in column No.2 of the FIR and serving as Supervisor in Siddique Security Company. On 30.07.2015 at about 6:00 p.m. his daughter namely baby Amara aged about 7 years went outside the house to purchase cold drink, thereafter she never came back, as such the complainant searched for her but could not succeed in finding her and as such he went to police station and reported her missing. On 31.07.2015 at about 11:00 a.m. complainant received phone call of Akber to immediately come at G-Block, as such he reached there and saw his daughter Amara in bare naked condition in the bushes of open plot. She was strangulated by her Shalwar. Her dead body was taken to Abbasi Shaheed Hospital for proceedings and postmortem report, hence present FIR was registered.

3. After registration of the case, the investigation was conducted by different police officials, SIP Ali Akbar had inspected dead body of baby Amara at Abbasi Shaheed Hospital and prepared such memo and inquest report, he had also issued letter to the concerned Medico Legal Officer for conducting postmortem of deceased Baby Amara. SIP Qurban Ali had inspected place of incident on the pointation of complainant Zahid Mehmood Arain, secured bloodstained earth and prepared such memo of presence of mashirs. He has also arrested accused Abid Ali on 02.08.2015 and on 04.08.2015 SIP Gul Bahar arrested co-accused Imran Ali and Sher Muhammad @ Nana on the pointation of accused Abid Ali. He also inspected place of committing rape and murder of baby Amara on the pointation of all the three accused persons and secured black colour Chappal of deceased Baby Amara, as such, he prepared such memo in presence of mashirs. SIP Gul Bahar had also recorded interrogation report in the DVD. Thereafter, Dr. Qarar Ahmed medically examined all the accused persons and issued such medico legal certificate, which reflects that accused were capable to perform sexual intercourse. Accused persons

were also identified by the eyewitnesses in the identification parade, held before concerned Judicial Magistrate. I.O. has also referred bloodstained earth and clothes of deceased baby girl to the chemical examiner under his letter and received such report. He had also referred blood samples of accused persons and parents of deceased baby girl for DNA report to Islamabad National Forensic Science Agency Project under his letter.

4. After the completion of the investigation, the case was challaned and the charge was framed against the accused. Thereafter they were sent-up to face trial where they all plead not guilty to the charge.

5. The prosecution in order to prove its case examined 13 witnesses and exhibited various documents and other items. The statement of accused were recorded under Section 342 Cr.P.C in which they denied all the allegations leveled against them and claimed false implication by the police in collusion with the complainant. However, the appellants did not give evidence on oath and did produce any DWs in support of their defence case.

6. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellants and sentenced them as set out earlier in this judgment; hence, the appellants have filed this appeal against their convictions.

7. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

8. Learned counsel for the appellants has contended that the appellants are innocent and have been falsely implicated in this case by the police in collusion with the complainant on account of enmity and hence the FIR was not registered promptly; that there was no eye witness to the abduction of the minor girl; that the last seen evidence could not be safely relied upon; that the eye witnesses to the making of the ransom demand by the appellants could not be safely relied upon especially with regards to the correct identification of the appellants who made a ransom demand; that no ransom demand was made and that this part of the story

was made up by the eye witnesses; that there are major contradictions and improvements in the case of the witnesses; that there was no evidence that any of the appellants were involved in the abduction, rape or murder of the minor girl and for any or all of the above reasons the appellants should be acquitted of the charge by extending them the benefit of the doubt. In support of his contentions he placed reliance on the cases of **Shah Faisal v. The State** (2021 TKR 244), **Bashir Muhammad Khan v. The State** (2022 SCMR 986), **Abdul Wahid v. The State and another** (2022 SCMR 1954), **Ziaullah alias Jajj v. The State** (2008 SCMR 1210) and **Kamal Din alias Kamala v. The State** (2018 SCMR 577).

9. On the other hand learned APG has fully supported the impugned judgment and in particular contended that the appellants abducted the minor girl; that there identification by the eye witnesses as the persons who made the demand for the safe return of the minor girl could be safely relied upon especially as they were picked out after an identification parade; that the medical evidence proved the rape and murder of the minor girl and the last seen evidence also supported the prosecution case and as such the prosecution has proved its case against the appellants beyond a reasonable doubt and the appeals should be dismissed. In support of his contentions, he has placed reliance on the cases of **Sh. Muhammad Amjad v. The State** (PLD 2003 Supreme Court 704), **Sajid Mehmood v. The State** (2022 SCMR 1882), **Akhtar v. The State** (2020 SCMR 2020) and **Tariq Mehmood and another v. The State** (2002 SCMR 32).

10. We have heard the arguments of the learned counsel for the appellant and learned Additional Prosecutor General Sindh and gone through the entire evidence which has been read out by the learned counsel for the appellant and the impugned judgment with their able assistance and have considered their arguments and the relevant law including the case law cited at the bar.

11. At the outset we find that based on the oral evidence of the witnesses, the medical evidence including medical reports and chemical report and the blood recovered at the crime scene and the semen found on the body of baby Amarah (the deceased) that the deceased was abducted,

raped and murdered between 30.07.2015 and 31.07.205 at vacant plot situated in block G Abdullah Shah Ghazi village, Karachi.

12. The only issue before us therefore is whether the appellants abducted the deceased for ransom, raped and then murdered the deceased on the said time date and location.

13. After our reassessment of the evidence we find that the prosecution has **NOT** proved beyond a reasonable doubt the charge against the appellants for which they were convicted keeping in view that each criminal case is based on its own particular facts, circumstances and evidence for the following reasons;

**(a) The sequence of events/chronology as gleaned from the evidence castes doubt on the prosecution case which is as under;**

(i) The deceased went missing 30.07.2015 at about 6pm when she left her house to buy sweets and never returned home.

(ii) On 31.07.2015 at about 7am the appellants came to the house of the complainant and demanded a ransom of Rs.200,000 for the safe return of his daughter.

(iii) That on 31.07.2015 at 10.15 am the dead body of the deceased was found.

(iv) That on 31.07.2015 at 4.45pm the complainant gave his S.154 Cr.PC statement which became the basis of the FIR.

**In the FIR however against unknown persons there is no mention by the complainant that anyone, let alone the appellants, had made a ransom demand for the safe return of his daughter.** He had nothing to fear by adding this aspect of the case in his S.154 Cr.PC statement as he knew his daughter was already dead and as such he had nothing to lose by mentioning the ransom demand from three unknown persons in his S.154 Cr.PC statement and the fact that he failed to do so castes serious doubt on his later further statement and eye witness evidence which he later gave at trial.

(v) In fact on 02.08.2015 the appellant Abid was arrested on the assertions of the original accused Guda Hussain who was being interrogated in police custody in respect of the crime on 01.08.2015 who the appellants claimed in their S.342 Cr.PC statements was the real accused but was let off after paying a bribe. It was **only after** the arrest of appellant Abid for the crime that in the **further statement** made by the complainant on 03.08.2015 that the story of a ransom demand from three unknown persons surfaces which appears to us based on the particular facts and circumstances of the case to be manufactured and as such little reliance can be placed on the so called eye witness evidence of the complainant which we

will come to later. Such a material improvement in the further statement of the complainant after Abid's arrest castes serious doubt on his entire evidence as it is a massive, significant and dishonest improvement in the context of the case. In this respect reliance is placed on the case of **Farman Ahmed V Muhammed Inayat** (2007 SCMR 1825)

**(b) The abduction, rape and murder of the deceased.**

(i) No eye witness saw the abduction of the deceased or the murder or rape of the deceased.

(ii) The only evidence in respect of the abduction is the last seen evidence of PW 11 Ali Raza. Whose evidence we will discuss in detail below;

(iii) According to his evidence on 30.07.2015 at about 6.40pm he was sitting in his workshop and saw three culprits take away the deceased girl with them on a motorcycle. On 31.08.2015 the dead body of the deceased was recovered and the police came to his work shop and asked him if he could identify the persons who he saw taking the girl away by motor bike to which he answered in the affirmative. On 06.08.2015 he came to the court for an identification parade however it could not take place and he returned for the identification parade on 08.08.2015 whereby he identified all of the appellants as being on the motor bike with the deceased.

From his evidence the following questions emerge:

(aa) How did the police know that he had seen the incident as the police came to him and not vice versa?

(bb) It is unclear how many days after the incident he gave his S.161 Cr.PC statement to the police.

(cc) In his S.161 Cr.PC statement by his own admission he did not give any features, hulia, description of the appellants or the deceased none of whom he had seen before so how would he be able to safely and correctly identify them at an identification parade?

(dd) **More significantly** he states that he saw 20/30 bikes while taking babies on the same day so how did be know that it was these appellants (who he had never seen before) who had kidnapped a child rather than any others person driving their bikes with a baby on board?

(ee) Even if he was correct in his identification of the appellants and the deceased how do we know that the appellants did not drop off the deceased else where before her death?

(ff) The doctrine of last seen evidence must be viewed with great care and caution by the courts as it is regarded as a very weak kind of circumstantial evidence and the test as set out in the cases of

**Fayyaz Ahmed V State** (2017 SCMR 2026) and **Muhammed Abid V State** (PLD 2018 SC 813) must be met even for it to be considered as a piece of circumstantial evidence which needs corroboration from an independent unimpeachable source. Based on the reasons mentioned above we disbelieve the evidence of PW 11 Ali Raza in respect of last seen evidence and even otherwise we find for such reasons that he was not in a position to correctly identify the appellants as the persons who were riding the motor cycle with the abducted child especially as the appellants in their S.342 Cr.PC statements claim that the appellants were shown to the eye witnesses before the identification parade as they were in police custody and in this case it is noted that the appellant could have seen the appellants when he arrived for his first identification parade on 06.08.2015 which did not take place. Thus, this so called last seen evidence we find to be of no assistance to the prosecution.

**(c) The involvement of the appellants in this case.**

(i)According to the evidence of PW 10 Qurban Ali who was the first IO in this case on 01.08 2015 he initially arrested Gada Hussain and Nazeer in this case on suspicion and brought them to the PS. During interrogation Gada Hussain informed him that accused Abid had come on motor cycle with the deceased girl at his mechanic shop to meet with Irfan which lead him to arresting Abid on 02.08.2015 who was located through spy information. Significantly, Gada Hussain would have been the best witness for last seen evidence however he was **not** called as a witness to give evidence for the prosecution and nor was Irfan for reasons best known to the prosecution. Surprisingly Gada Hussian does not mention that the girl was raising any objection to being with appellant Abid or was in any kind of distress. No explanation was furnished as to why the PW 10 Qurban Ali who was the IO found Gada Hussain to be innocence and was dropped as the main suspect although the defence claim that it was on account of him taking a bribe. As noted above once appellant Abid was arrested rather conveniently a further statement was taken from the complainant introducing for the first time that a ransom demand had been made for the safe return of the deceased and appellant Abid was later conveniently identified by the complainant as one of the persons who made the demand.

(ii)Evidence to be treated as reliable must appeal to logic, commonsense, reason and natural conduct. In this case it does not appeal to logic, commonsense, reason or natural conduct that you would go to a mechanic with many workers present with an abducted girl who would be able to identify you especially if you raped and murdered the girl within one day. In this respect reliance is placed on the cases of **Muhammed Asif v State** (2017 SCMR 486) and **Mst. Rukhsana Begum V Sajjad** (2017 SCMR 596).

(iii)It is also notable that appellant Abid confessed to the crime whilst in police custody and implicated the other appellants as his co-accused who were then arrested however no effort was made to bring appellant Abid or any other of the appellants to record there

judicial confessions before a magistrate despite them attending an identification parade before a judicial magistrate.

(iv) We find that the manner in which the appellants were involved in this case castes doubt on the prosecution case.

(d) **The rape of the deceased.**

(i) This has been proven from the medical evidence and the chemical report which found the presence of semen on her body however there is no evidence to link this rape or semen to any of the appellants.

(e) **The murder of the deceased.**

(i) It has been proven through medical evidence that the deceased was murdered through strangulation but the only piece of evidence against the accused is that a sandal of the deceased was recovered from the place where the co-accused were arrested. This however was a common sandal and could have been purchased from any store and could have easily been planted by the police.

(f) **The eye witnesses and the ransom demand.**

(i) **Eye witness PW 2 Zahid Mehmood** was the complainant and the father of the deceased. As discussed earlier in his FIR he made no mention of the ransom demand dispute his daughter already being dead so he had no reason not to mention it when he lodged his FIR. We find it **unbelievable** that he failed to mention it as it was one of the most important pieces of evidence in this case against the appellants. Instead after the arrest of appellant Abid he conveniently remembers it in his further statement and gives evidence to the effect that the appellants came to his house the next morning after the abduction and in front of his wife Naila and his relative Bilal demanded a ransom of RS200,000 for the safe return of his daughter. Even however in his further statement he gives no hulia/description of any of the persons who made the ransom demand or in his greatly improved evidence on this crucial aspect of the case. He did not know any of the accused before and would only have got a short look at the appellants whilst they made their ransom demand. The importance of hulia for a correct identification has been emphasized in the case of **Javed Khan V State** (2017 SCMR 524) concerning the necessity for an early hulia/description of an accused by an eye witness in his S.161 Cr.PC statement before an identification parade and the need to strictly follow the rules governing identification parades where it was held as under at P.528 to 530:

> *"7. We have heard the learned counsel and gone through the record. The prosecution case rests on the positive identification proceedings and the Forensic Science Laboratory report which states that the bullet casing sent to it (which was stated to have been picked up from the crime scene) was fired from the same pistol (which was recovered from Raees Khan in another case). We therefore proceed to consider both these aspects of the case. As*

*regards the identification proceedings and their context there is a long line of precedents stating that identification proceedings must be carefully conducted. In Ramzan v Emperor (AIR 1929 Sid 149) Perceval, JC, writing for the Judicial Commissioner's Court (the precursor of the High Court of Sindh) held that, "The recognition of a dacoit or other offender by a person who has not previously seen him is, I think, a form of evidence, which has always to be taken with a considerable amount of caution, because mistakes are always possible in such cases" (page 149, column 2). In Alim v. State (PLD 1967 SC 307) Cornelius CJ, who had delivered the judgment of this Court, with regard to the matter of identification parades held, that, "Their [witnesses] opportunities for observation of the culprit were extremely limited. They had never seen him before. They had picked out the assailant at the identification parades, but there is a clear possibility arising out of their statements that they were assisted to do so by being shown the accused person earlier" (page 313E). In Lal Pasand v. State (PLD 1981 SC 142) Dorab Patel J, who had delivered the judgment of this Court, held that, if a witness had not given a description of the assailant in his statement to the Police and identification took place four or five months after the murder it would, "react against the entire prosecution case" (page 145C). In a more recent judgment of this Court, Imran Ashraf v. State (2001 SCMR 424), which was authored by Iftikhar Muhammad Chaudhry J, this Court held that, it must be ensured that the identifying witnesses must "not see the accused after the commission of the crime till the identification parade is held immediately after the arrest of the accused persons as early as possible" (page 485P).*

*8. The Complainant (PW-5) had not mentioned any features of the assailants either in the FIR or in his statement recorded under section 161, Cr.P.C. therefore there was no benchmark against which to test whether the appellants, who he had identified after over a year of the crime, and who he had fleetingly seen, were in fact the actual culprits. Neither of the two Magistrates had certified that in the identification proceedings the other persons, amongst whom the appellants were placed, were of similar age, height, built and colouring. The main object of identification proceedings is to enable a witness to properly identify a person involved in a crime and to exclude the possibility of a witness simply confirming a faint recollection or impression, that is, of an old, young, tall, short, fat, thin, dark or fair suspect....*

*9.As regards the identification of the appellants before the trial court by Nasir Mehboob (PW-5), Subedar Mehmood Ahmed Khan (PW-6) and Idress Muhammad (PW-7) that too will not assist the Prosecution because these witnesses had a number of opportunities to see them before their statements were recorded. In State v. Farman (PLD 1985 SC 1), the majority judgment of which was authored by Ajmal Mian J, the learned judge had held that an identification parade was necessary when the witness only had a fleeting glimpse of an accused who was a stranger as compared to an accused who the witness had previously met*

> ***a number of times*** *(page 25V). The same principle was followed in the unanimous judgment of this Court, delivered by Nasir Aslam Zahid J, in the case of Muneer Ahmad v State (1998 SCMR 752), in which case the abductee had remained with the abductors for some time and on several occasions had seen their faces.* ***In the present type of case the culprits were required to be identified through proper identification proceedings, however, the manner in which the identification proceedings were conducted raise serious doubts (as noted above) on the credibility of the process. The identification of the appellants in court by eye-witnesses who had seen the culprits fleetingly once would be inconsequential."*** (bold added)

As for the identification parade it was carried out in such a manner that no reliance can be placed on it. Firstly it was a **joint identification parade** which has for long been deprecated by the superior courts. Secondly, the dummies being 27 in total were all collected by the police and even an ASI from the same PS which was investigating the crime was made to be a dummy Thirdly, no CNIC's or any details of the dummies were taken and as such we find that the identification parade was not carried out in accordance with the relevant legal procedures which greatly undermines its legal value and we place no reliance on it. In this respect reliance is placed on the case of **Kamal Din** (Supra)

Usually a father would not falsely implicate the person who killed his daughter and let the real murderer go scott free but in this case it was his adopted daughter and if his wife did not agree that the appellants abducted, raped and murdered his daughter this aspect of the case tends to even itself out.

There also seem to be some material contradictions in the evidence of this PW and other PW's in that he states in his evidence that his friend PW 4 Akbar Ali who was a police men told him to reach at G Block immediately and when he reached there he found his daughter hanged and strangled. On the other hand PW 4 Akbar does not state at all in his evidence that he called the complainant and asked him to reach G Block. Instead he states that an intelligence officer informed him about the location of the body and when he reached there the body had already been taken by ambulance to the hospital and that he saw the complainant at the hospital. So how could the complainant have reached the site where the body was before PW 4 Akbar who gave him the information?

Thus, we disbelieve the evidence of this witness that any ransom demand was made and even if it was made he would not be in a position to correctly identify the appellants as he gave no hulia of them; that it was even claimed by the appellants that they were shown to the eye witness before the identification parade which was not carried out in accordance with the relevant legal procedures.

(ii) **Eye witness PW 6 Naila** who is the wife of PW 2 Zahid Mehmood and the mother of the deceased is not of much assistance to the prosecution case because although she identified the appellants as the persons who came to her house and made a ransom demand in front of her, her husband (PW 2 Zahid Mehmood ) and relative (PW 12 Bilal) before an identification parade at trial she retracted her identification of the appellants at the identification parade and failed to recognize the appellants in the court as the persons who came to her house and made the ransom demand and was resultantly declared as hostile witness. It is true that in certain circumstances we can take the evidence of a hostile witness into account but in this case we are not inclined to do so as like her husband PW 2 Zahid Mehmood she gave no hulia of the accused in her S.161 Cr.PC statement and as such we cannot safely rely on her identification of the appellants before the identification parade which even otherwise was not conducted in accordance with law.

(iii) **Eye witness PW 12 Bilal.** In his evidence he states that the appellants came to the house of PW 2 Zahid Mehmood and in the presence of PW 2 Zahid Mehmood and PW 6 Naila made a ransom demand of RS200,000 for the safe return of the deceased. This eye witness is related to the complainant and is a permanent resident of the Punjab who gave no reason for his presence in Karachi that day. We find him to be a chance witness. He like the other eye witnesses did not give any hulia of the appellants who allegedly demanded a ransom (apparently he only gave his S.161 Cr.PC statement **after** the identification parade) and also picked them out before a defective identification parade and as such we find that we can not safely rely on his evidence in terms of him correctly identifying the appellants as the persons who made a ransom demand at PW 2 Zahid Mehmood's house.

We also find it **significant** that none of the eye witnesses made any effort to over power and capture any of the appellants who were unarmed at the time when they made the ransom demand as a bargaining chip for the safe recovery of their daughter and close relative which would have been natural human conduct under the circumstances.

As such for the reasons mentioned above we disbelieve all the eye witnesses in respect of a ransom demand being made and even if a demand was made we find that we cannot safe rely on their evidence as correctly identifying the appellants as the persons who made the ransom demand.

(g) As already mentioned evidence to be treated as reliable must appeal to logic, commonsense reason and natural conduct. In this case it does not appeal to logic, commonsense, reason and natural conduct that a person would go to the house of the person whose daughter they had kidnapped and make a ransom demand as the persons who saw you at the house would be able to identify you as one of the persons who made the ransom demand and had abducted their child. Ransom demand's are usually made by phone

or any other means whereby the person making the ransom demand cannot be recognized/identified later so that he can get away scott free and enjoy the ransom money without any suspicion falling on him. Such conduct of the appellants in this case we find to be completely unnatural In this respect reliance is placed on the cases of **Muhammed Asif v State** (2017 SCMR 486) and **Mst. Rukhsana Begum V Sajjad** (2017 SCMR 596).

(h) Any confession before the police is inadmissible in evidence likewise any video recorded by the police of the alleged confession especially as the phone from which the video was recorded was never seized, was not produced by the maker and had not been authenticated and even then the confession was recorded in police custody without the usual safeguards relating to confessions. It also appears that the alleged confessors had sustained injuries which might be attributable to police beatings/torture and as such this evidence is inadmissible. In this respect reliance is placed on the case of **Asfandyar V Kamran** (2016 SCMR 2084)

(i) We have also considered the defence case in juxta position to the prosecution case. Admittedly none of the appellants gave evidence on oath or called any DW in support of their defence case but from the word go the appellants have been claiming false implication on account of enmity and that the real culprit Gudda Hussain who was the original police suspect who falsely implicated appellant Abid was let off after paying a bribe and as such we give slight weight to the defence case which is not completely unbelievable and cannot be simply bushed aside based on the particular facts and circumstances of this case.

(j)That the prosecution must prove its case against the accused beyond a reasonable doubt and that the benefit of doubt must go to the accused by way of right as opposed to concession. In this respect reliance is placed on the case of **Tariq Pervez V/s. The State** (1995 SCMR 1345).

14. For the reasons discussed above we find substantial doubts in the prosecution case and by extending the benefit of the doubt to the appellants they are all acquitted of the charge, the impugned judgment is set aside, the appeals are allowed and the appellants shall be released unless wanted in any other custody case.

15. The appeals stand disposed of in the above terms.