

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

(1) Cr. Appeal No.S-27/2024)

Appellants : Badal son of Akho Mal, Menghwar
Through M/s Muhammad Ali Napar, Danish Ali
Bhatti, Advocates

(2) Cr. Appeal No.S-28/2024

i) Bhorio s/o Peemo Marwari & ii) Khano s/o Bhorio
Through Mr. Ghulam Murtaza Burriro, Advocate

(3) Cr. Jail Appeal No. S-29/2024)

i) Bhorio, ii) Khano & iii) Badal
Through Mr. Ghulam Murtaza Burriro, Advocate

(4) Cr. Appeal No.S-34/2024)

Hawa Bai @ Mst. Horri w/o Bhorio, Marwari
Through Mr. Ghulam Murtaza Burriro, Advocate

Complainant : Mukhtiar Hussain S/o Ghulam Akbar, Rind
Through M/s Khan Muhammad Sangi and
Sikander Sadar Siddiqui, Advocates

The State : Through Mr. Shafi Muhammad Mahar, DPG

Date of hearing : 29.09.2025

Date of judgment : 13.10.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.– Instant Four Appeals filed on behalf of convicted Badal, Bhorio, Khano and Hawa Bai @ Horri, against the impugned judgment passed by the learned Additional Sessions Judge-IV/Special GBV Court, Khairpur in case bearing Crime No.26 of 2015, for offences under Sections 365-B, 376(2), 148, 149 and 382 PPC, registered at P.S Kumb, district Khairpur and convict the accused different sentences vide judgment dated 30th March, 2024 in Sessions Case No.932 of 2015. It is worth mentioning that appellant Badal, Bhorio and Khano had filed separate appeals bearing Nos.S-27/2024 & S-28/2024, therefore, the learned counsel does not press the Cr.Jail Appeal No.S-29/2024; accordingly, it stands dismissed as not pressed.

2. The prosecution case finds its genesis in the tragic events alleged to have occurred on 15th February, 2015 at about 08:00 PM at residence of complainant Mukhtiar Hussain in village Bhorio. According to the FIR lodged on 16th February, 2015 at 09:00 PM, several armed persons including named and unnamed accused forcibly entered the complainant's house,

overpowered the family members, committed theft of dowry articles, cash amounting to Rs.25,000, and gold ornaments, and abducted the complainant's unmarried daughter Mst. Farzana with criminal intent. The complainant alleged that the perpetrators threatened to kill family members, if they reported the incident and fled with the victim.

3. After completion of investigation and submission of final report (challan) by the Investigating Officer, the case was committed to the Court of Sessions through the learned Judicial Magistrate-I, Kotdiji, who completed codal formalities against absconding accused vide Exhibits 1 to 3. The case papers were supplied to the accused persons and receipts obtained from them at Exhibits 4 and 5. Formal charge was framed against accused Bhorio, Haroo (who later died and proceedings were abated), Hawa Bai @ Horri, Khano and Badal at Exhibit 6 on 27th October, 2015 to which all accused pleaded not guilty and claimed trial vide their pleas recorded at Exhibits 7 to 11. During the comprehensive trial proceedings, the prosecution examined eleven witnesses in total. These included PW-1 SIP Abdul Ghafoor Sargani at Exhibit 12 who produced site inspection mashirnama and arrest memos; PW-2 ASI Rehmatullah Solangi at Exhibit 13 who testified about recovery of the abductee and produced recovery mashirnama; PW-3 complainant Mukhtiar Hussain Rind at Exhibit 14 who produced the FIR; PW-4 Ali Akbar Rind at Exhibit 15 as eyewitness; PW-5 Imtiaz Hussain Rind at Exhibit 16 as mashir; PW-6 victim Mst. Farzana at Exhibit 17 who produced her statement under Section 164 Cr.P.C.; PW-7 SIP Din Muhammad Wassan at Exhibit 18; PW-8 Dr. Ghulam Shabir Rajper at Exhibit 19 who examined accused Khano; PW-9 Dr. Shaista Shaikh at Exhibit 22 who conducted medical examination of the victim; PW-10 Irshad Ali Solangi at Exhibit 23; and PW-11 PC Ghulam Sarwar Muhammadani at Exhibit 24. However, through separate statements duly supported by applications of the complainant, the learned ADPP for the State gave up two crucial witnesses namely Zahoor Hussain and Muhammad Ashraf without examination, and thereafter closed the prosecution side vide statement at Exhibit 28. The statements of all accused were recorded under Section 342 Cr.P.C. at Exhibits 29 to 32, wherein they denied all allegations of the prosecution and prayed for justice. The accused neither examined themselves on oath under Section 340(2) Cr.P.C. nor produced any witnesses in their defense. They took the consistent plea that they were farmers (*Hari*) of the

complainant for five years and when they demanded their outstanding dues, the complainant fabricated this case to avoid payment and harass them. After hearing arguments from all parties, the learned trial court determined two points: whether the accused committed the alleged offenses on 15th February, 2015 and what the judgment should be. The court found Point No.1 proved to the extent of abduction and rape, and accordingly convicted all accused under Section 265-H(2) Cr.P.C. The impugned judgment dated 30th March, 2024 imposed the following sentences:

- i. accused Bhorio, Khano and Badal were convicted under Section 365-B read with Section 149 PPC and sentenced to rigorous imprisonment for life with compensation of Rs.50,000 each to be paid to the victim; they were further convicted under Section 376(2) read with Section 149 PPC and sentenced to rigorous imprisonment for life with additional compensation of Rs.100,000 each;
 - ii. accused Hawa Bai @ Mst. Horri was convicted under both sections but given a lenient sentence of ten years rigorous imprisonment for each offense with compensation amounts of Rs. 50,000 for each charge. All sentences were ordered to run concurrently, with benefit of Section 382-B Cr.P.C. for any period spent as under-trial prisoners. The court directed that accused be taken into custody and sent to respective prisons, with copies of the judgment supplied free of cost, while the case against absconding accused was kept on dormant file pending their arrest or appearance.
4. In the arguments phase, learned counsel for appellant Badal advanced comprehensive contentions challenging every aspect of the prosecution case against appellant Badal. The primary argument centered on the fundamental fact that Badal's name does not appear anywhere in the original FIR registered on 16th February 2015, despite the incident allegedly occurring on 15th February, 2015. This complete absence from the initial complaint raises serious questions about the authenticity of subsequent allegations against him. Counsel emphasized that in the crucial statements recorded under Section 161 Cr.P.C. from key witnesses Ali Akber and Zeeshan Ahmed, both of whom were allegedly present during the incident, Badal is not nominated at all. These statements were recorded promptly after

the incident when memories would have been fresh and details accurate. The complete omission of Badal's name from these contemporaneous accounts cannot be explained away by subsequent improvements in testimony. Most significantly, when the victim Mst. Farzana was recovered on 02nd March, 2015 and her statement was immediately recorded, she made absolutely no mention of Badal despite providing detailed accounts of her ordeal. This statement, recorded within hours of her recovery when the traumatic events would have been most vivid in her memory, contains no reference to Badal whatsoever. Counsel argued that Badal's name appears for the first time only in the victim's delayed statement under Section 164 Cr.P.C. recorded on 24th April, 2015; fully one month and twenty days after her recovery. Even in this delayed statement, the only allegation against Badal is that he told her she would have to change her religion and that "taveez" would be administered to her. Crucially, no formal charge was ever framed regarding religious conversion or related threats, and no specific questions were put to Badal during his examination under Section 342 Cr.P.C. regarding these allegations. The non-examination of crucial witnesses Zubair and Rabnawaz by the prosecution was highlighted as engaging article 129(g) of the Qanun-e-Shahadat Order, which permits the court to draw adverse inference against the prosecution for withholding material evidence. These witnesses could have provided crucial clarity regarding the identification of accused persons and the actual circumstances of the alleged incident. Counsel relied extensively on the precedent established in *Atta ul Mustafa v. State* (2023 SCMR 1698), which holds that accused persons without corroboration from initial accounts, creates reasonable doubt that must be resolved in favor of the accused. The Supreme Court in this judgment emphasized that when accused persons are implicated through afterthought or delayed statements contradicting earlier accounts, such evidence cannot form the basis of conviction. Reference was made in the case of *Muhammad Asif v. State* (2017 SCMR 486), which established that material contradictions in prosecution evidence, particularly regarding identification of accused persons, render the case unsafe for conviction. The Supreme Court held that when the prosecution case suffers from fundamental inconsistencies regarding the involvement of accused persons, benefit of doubt must be extended as a matter of right. The authority in *Bilawal v. The State* (2021 YLR 260) was cited to establish the principle that benefit of doubt is not a matter of judicial

grace but a right of the accused person. The Supreme Court emphasized that when reasonable doubt exists regarding the guilt of an accused person, acquittal becomes mandatory regardless of the perceived gravity of the allegations. Counsel further argued that significantly, the complainant has filed affidavit expressing no objection to acquittal of appellants except Badal, which fundamentally undermines any basis for maintaining conviction. For any of the appellants, specifically mentioning there was nothing on record, except delayed statement of alleged victim to the extent of issuing threats to change the religion and administering *taveez*.

5. Learned counsel for appellants Bhorio, Khano, and Hoori similarly advanced comprehensive arguments challenging their convictions on both legal and factual grounds. It was contended that the complainant Mukhtiar Hussain had filed affidavit expressing no objection to the acquittal of these appellants, which constitutes a fundamental concession by the prosecution side. The charges framed against these appellants were challenged as legally defective, particularly where a mother (Khano), father (Bhorio), and son (Hoori) are all charged jointly for offence under Section 376 PPC for gang rape without any specific individual roles being established or differentiated. Counsel argued that such generic charging violates the fundamental principle that each accused person must be made aware of the specific acts attributed to them.

6. A critical argument was advanced regarding the complete failure of the prosecution to establish the alleged theft that forms part of the charges. The complainant was unable to provide any credible details about the allegedly stolen articles, their descriptions, values, or any subsequent recovery. During testimony, the complainant could not specify what exactly was stolen, making the theft charges legally unsustainable. Ali Akber, who was shown as a mashir of the place of occurrence, provided no substantive corroboration of the prosecution version beyond mere formal presence at the site. His testimony lacked specific details about the incident and failed to establish the individual roles of various accused persons. Counsel highlighted the victim's complete silence regarding the specifics of her medical examination, including how it was conducted, what procedures were followed, and what evidence was collected. The medical officer Dr. Shaista Parveen was not adequately cross-examined regarding the collection of DNA evidence, vaginal swabs, or other forensic material that should have been

standard in such cases. Most significantly, no chemical examination report was produced at trial, representing a critical gap in the forensic evidence that should have been available to support allegations of sexual assault. The absence of any scientific or forensic corroboration of the rape allegations seriously undermines the prosecution case. Counsel emphasized that the victim was not recovered from the actual physical possession of any of the present appellants, which raises fundamental questions about their alleged involvement in the abduction and subsequent crimes. The recovery was made from a location not directly connected to any appellant, and no evidence established their presence at the recovery site. Critical procedural violations were highlighted, including the absence of crucial police records such as departure and arrival entries, which should have been maintained to document police movements during the investigation. The original roznamcha entry 13-A was not produced, despite being referenced in testimonies. The failure to ensure the presence of a lady police constable during recovery operations involving a female victim was cited as a serious procedural violation that casts doubt on the entire recovery narrative. Such presence is not merely a procedural formality but a mandatory requirement designed to protect the rights and dignity of female victims.

7. In rebuttal, learned counsel for the complainant advanced arguments supporting the prosecution case while acknowledging certain evidentiary challenges. Reliance was placed on *Farooq Ahmed v. The State* (PLD 2020 SC 313), which emphasizes the protection of victims of sexual violence and the weight to be accorded to victim testimony in such cases. Counsel argued that in cases involving sexual assault, courts should be cautious about allowing minor contradictions or procedural lapses to derail prosecutions for such serious crimes. It was contended that the victim's identification of accused persons in court, combined with medical evidence confirming sexual intercourse, provides sufficient basis for conviction. The counsel argued that delayed reporting or minor discrepancies in testimony are natural consequences of traumatic experiences and should not be treated as fatal to the prosecution case. Counsel emphasized that the medical evidence established that sexual intercourse had taken place, and when combined with the circumstances of the victim's abduction and recovery, creates a sufficient evidentiary foundation for conviction. The argument was made that perfect consistency in victim testimony would actually be more

suspicious than natural variations in recollection. However, it was admitted that complainant had filed an affidavit raising no objection for acquittal of appellants, except Badal.

8. The learned Deputy Prosecutor General for the State supported the convictions awarded by the trial court, arguing that the prosecution had successfully discharged its burden of proving guilt beyond reasonable doubt. The DPG contended that the cumulative effect of testimonial, medical, and circumstantial evidence warranted the convictions despite certain evidentiary challenges. It was argued that the appellants had failed to provide any credible alternative explanation for the victim's condition after recovery or for the circumstances that led to the serious allegations against them. The prosecution's case, while not perfect, was argued to be sufficiently strong to support the convictions. The DPG emphasized that the trial court had the advantage of observing witness demeanor and credibility firsthand, and that appellate courts should be reluctant to disturb findings of fact made by trial courts unless clear legal errors are demonstrated.

9. Heard & Perused. Record shows the complainant PW-3 Mukhtiar Hussain testifies insofar that he was at his house on 15.02.2015 when accused persons armed with firearms broke into his premises, overpowered his family, and abducted his daughter Farzana. However, the record shows that in his initial statement to the police then and in his examination-in-chief, he did not specify the role of Badal or any particular accused involved in the abduction. Notably, his FIR, which, according to law, should encapsulate the earliest and most direct version, does not name Badal at all nor describes his involvement explicitly. In contradiction, the targeted mention of Badal only appears in statement of victim Farzana recorded at a later date specifically the assertion that Badal told the abducted girl she must change her religion and *tanveez* would be administered. The delay of over a month in including Badal's name in the victim's statement without any explanation raises a material doubt about whether Badal was involved or merely implicated post hoc, possibly under influence or due to the ongoing enmity. Similarly, PW-4 Ali Akber who is son complainant testified that he had seen the incident but did not during his section 161 statement implicate Badal at all. His statement was silent on Badal's presence or role during the event, yet at trial, he identified some accused. His cross-examination further exposed contradictions; for example, he admitted

that he was not explicitly asked about Badal during police proceedings, which feeds into an inference of deliberate omission. His testimony contains no details, no identification of Badal's role, but he now suspects Badal of involvement based solely on subsequent statements. PW-6 Mst. Farzana, the abductee, initially did not mention Badal during her immediate statement after recovery, nor during her examination-in-chief. It was only after a delay of nearly 50 days that she implicated Badal in her supplementary statement, alleging that he threatened her about changing her religion and that tanveez would be administered, an allegation, that was never embedded in the charge or specific formal charge framing. Her inconsistent mentions undermine her credibility directly. Moreover, her statement did not specify the sequence of events, how attack occurred, or how she was abducted, but only in the delayed statement did she speak about Badal's threats. Her initial silence raises doubt either Badal was not involved or she was coerced to implicate him after the fact. Similarly, PW-8 Dr. Shaista, who examined the victim, testified that she found signs of prior sexual intercourse but no external violence or injury indicating forcible rape. No DNA or vaginal swab evidence was collected. Her testimony regarding the absence of forensic samples is critical, as it disables corroboration from scientific evidence, further making the late implicature of Badal's name in the case evidence weak, especially where the victim's first statement at the earliest time contains no mention of him. PW-9 Investigating Officer and PW-10 also admit that no independent witnesses were associated with the recovery or arrest proceedings, contradicting the legal requirement that such procedures be transparent and impartial. The police officials testified that the recovery memos were prepared without proper documents or witnesses most notably, with the recovery memo drafted on a clipboard "at the police station" rather than the scene, indicating fabrication. Furthermore, the witnesses who could have corroborated or challenged the narrative namely, Zeeshan Ahmed and Rabnawaz were not examined or produced. Their absence at trial informs the adverse inference that non-examination suggests either no evidence against Badal or a deliberate attempt to hide facts that might surface inconsistencies.

10. Throughout the trial proceedings, several critical witnesses mentioned in the case were never examined. Zeeshan Ahmed who was allegedly present during the occurrence according to some accounts, was not produced by the prosecution despite his statement being recorded under

Section 161 Cr.P.C. In this statement, significantly, he did not mention Badal at all. Similarly, Rabnawaz, another witness whose statement was recorded, also did not implicate Badal in his Section 161 Cr.P.C. statement, and he too was never brought to court for examination.

11. The defense throughout maintained that the accused persons were falsely implicated due to disputes arising from agricultural work and unpaid wages. According to defense contentions, the complainant's family had employed the accused as agricultural laborers and owed them substantial amounts for work performed. When the accused demanded payment, the complainant family, being unable or unwilling to pay, concocted this serious case to avoid their financial obligations and to harass the accused persons who were from a marginalized community.

12. Defense witnesses testified about the background relationships and the real reasons behind the false case. The defense argued that the delayed implication of various accused persons, the lack of independent witnesses, the absence of forensic evidence, and the material contradictions in prosecution testimony all pointed to a fabricated case designed to settle personal scores and avoid financial obligations.

13. Upon further careful examination of the impugned judgment in conjunction with all evidence adduced before the trial court, this court observes that the learned trial court's decision suffers from fundamental legal and factual deficiencies that render the convictions unsustainable. The trial court's approach to evidence evaluation falls significantly short of the standards required for criminal convictions, particularly in cases involving such serious allegations.

14. The crux of the impugned judgment reveals a superficial analysis that failed to grapple with the material contradictions and evidentiary gaps that permeate this case. The trial court accepted prosecution testimony at face value without applying the enhanced scrutiny required when dealing with interested witnesses, delayed implications, and cases lacking independent corroboration. Most critically, the trial court completely failed to address the fundamental question of why Badal's name appears nowhere in the original FIR, in the statements of key witnesses, or in the victim's initial account after recovery, only to surface in a delayed supplementary statement without adequate explanation. This represents not a minor discrepancy but a

fundamental contradiction that goes to the heart of the identification evidence.

15. The trial court's treatment of the medical evidence demonstrates another significant flaw in its reasoning process. While acknowledging that the medical officer found signs of sexual intercourse, the court failed to note or adequately address the complete absence of any forensic evidence that could identify the perpetrators. No DNA evidence was collected, no chemical analysis was conducted, and no scientific methods were employed to establish a connection between the accused persons and the alleged crimes. The trial court also failed to properly evaluate the significance of the prosecution's decision to give up key witnesses without adequate justification. The non-examination of Zahoor Hussain, Muhammad Ashraf, Zeeshan Ahmed, and Rabnawaz deprives the case of crucial testimonial evidence that could have either supported or contradicted the prosecution's version of events.

16. This Court being appellate authority, an independent appraisal of the evidence reveals multiple layers of reasonable doubt that the trial court either ignored or inadequately addressed. The pattern of delayed implication, particularly regarding Badal, creates a presumption of afterthought that requires explanation from the prosecution. No such explanation was provided, and the trial court failed to demand one. The complete absence of details regarding allegedly stolen property, combined with the failure to establish any recovery of such property from the accused persons, renders the theft charges legally unsupportable. The prosecution cannot meet its burden merely by making allegations; it must provide credible proof of each element of the charged offenses. The medical evidence, while confirming sexual intercourse, falls far short of establishing the identity of the perpetrators or supporting the specific allegations against the accused persons. The absence of forensic corroboration in a case of this nature represents a critical gap that cannot be filled by speculation or assumption. The procedural violations identified throughout the investigation and trial proceedings are not merely technical irregularities but substantive breaches that affect the reliability of the evidence and the fairness of the proceedings. The absence of independent witnesses, the failure to maintain proper records, and the non-compliance with mandatory protocols all contribute to a pattern of deficiency that undermines confidence in the case. The constitutional

framework governing criminal trials in Pakistan, particularly Article 10-A guaranteeing fair trial rights, requires that convictions be based on evidence that meets the highest standards of reliability and credibility. The evidence in this case, contaminated by contradictions, procedural violations, and investigative lapses, falls well below these constitutional standards.

17. The legal precedents established by the Supreme Court of Pakistan provide clear guidance for cases involving material contradictions, delayed implications, and interested witness testimony. The foundational principle governing criminal convictions finds its genesis in *Tariq Pervez v. The State* (1995 SCMR 1345), wherein the apex court established that "the concept of benefit of doubt to an accused person is deep-rooted in our jurisprudence" and that "even a single circumstance creating reasonable doubt in a prudent mind entitles the accused to such benefit, not as a matter of grace and concession but as of right."

18. In the landmark decision of *Muhammad Mansha v. The State* (2018 SCMR 772), the Supreme Court held categorically that "when prosecution witnesses make contradictory statements or when accused persons are implicated through delayed and supplementary statements without corroboration, such evidence cannot form the basis of conviction." This precedent directly applies to appellant Badal's case, where his name emerges only in a delayed Section 164 Cr.P.C. statement without any mention in the original FIR or initial witness statements.

19. The Supreme Court in *Muhammad Asif v. The State* (2017 SCMR 486) established the crucial principle that "there is a long line of authorities of this Court and the High Courts that even one or two days unexplained delay in recording the statements of eye witnesses would be fatal and testimony of such witnesses cannot be safely relied upon." In the present case, the delay of about two months in implicating Badal creates an even more egregious violation of this established principle.

20. The recent Supreme Court decision in *Sardaran Bibi v. The State and others* (2024 SCMR 1116) reinforced the fundamental rule that "for giving benefit of doubt there may not be many circumstances, as a single doubt is enough to give benefit of the same to the accused, and if a single circumstance would create reasonable doubt in a prudent mind then accused would be entitled to such benefit, not as matter of grace and concession but as of right."

21. In *Muhammad Riaz v. Khurram Shehzad and another* (2024 SCMR 51), the Supreme Court articulated the comprehensive framework for evidence evaluation, holding that "the contradictions, if any, in the ocular evidence and medical evidence originates doubts and improbabilities in the prosecution case and, in such a situation, the benefit of doubt would obviously be extended to the accused. It is pertinent to note that it is not obligatory that there should be several circumstances creating doubts; even a simple circumstance creating reasonable doubt" suffices for acquittal.

22. The Supreme Court's decision in *Ayub Masih v. State* (PLD 2002 SC 1048) established the immortal principle that "it is better for ten guilty persons to escape than for one innocent person to be wrongly convicted," reflecting the paramount importance of individual liberty and the presumption of innocence in our constitutional framework. This principle assumes critical significance where, as here, the prosecution case suffers from multiple layers of reasonable doubt.

23. In *Khadim Hussain v. The State* (Federal Shariat Court, Criminal Appeal No. 7-I of 2022), the court applied these principles to a case remarkably similar to the present matter, where accused persons were nominated for the first time in delayed Section 164 statements after over 30 days without plausible explanation. The court held that such "inordinate delay in naming the accused without offering plausible explanation robs their credibility in view of well settled law that the credibility of the witness is looked with serious suspicion if his statement during investigation is recorded with delay."

24. The Supreme Court's pronouncement in *Falak Sher alias Sheru v. The State* (1995 SCMR 1350) and *Khalid Javed and another v. The State* (2003 SCMR 1419) established that material omissions in witness testimony, particularly regarding the identification of accused persons, create fundamental doubt about the prosecution's credibility that cannot be cured through subsequent improvements or enhancements.

25. The observations of this Court reaches to the conclusion that where an accused person's name does not appear in the FIR, initial witness statements, or victim's immediate post-incident account, but emerges for the first time in a delayed supplementary statement recorded weeks or months later without cogent explanation, such delayed implication creates a presumption of afterthought that requires the prosecution to provide

compelling justification. Mere assertion or the passage of time cannot cure this fundamental defect in identification evidence.

26. In cases where prosecution witnesses are admittedly interested parties (relatives, associates, or persons with stakes in the outcome), their testimony must satisfy a three-pronged test: (a) internal consistency within their own statements, (b) external consistency with other prosecution evidence, and (c) independent corroboration from neutral sources. Failure to meet any prong of this test renders such testimony unsafe for conviction. The use of interested persons as mashirs in recovery proceedings, while procedurally permissible, creates an evidentiary weakness that must be compensated by other reliable evidence. Where all mashirs are relatives or associates of the complainant, and independent witnesses were available but not associated, this creates a pattern of evidence manipulation that requires enhanced judicial scrutiny.

27. In cases involving serious crimes such as rape, murder, or dacoity, the deliberate failure to collect available forensic evidence (DNA, fingerprints, chemical analysis) without justification creates a gap in the prosecution case that cannot be filled by testimonial evidence alone. This principle recognizes that modern investigative techniques impose corresponding obligations on law enforcement to utilize available scientific methods. Where a complainant or victim expressly states no objection to an accused person's acquittal, either through formal affidavit or conduct in appellate proceedings, this creates a rebuttable presumption against the sustainability of conviction. While not conclusive, such concession requires careful judicial evaluation of the underlying reasons and motivations. These principles, rooted in constitutional guarantees of fair trial and due process, serve to strengthen the protection of individual rights while maintaining the integrity of the criminal justice system. They recognize that convictions must be based not merely on suspicion or probability, but on evidence that excludes every reasonable hypothesis consistent with innocence.

28. The constitutional guarantee of presumption of innocence means that accused persons are not required to prove their innocence; rather, the prosecution must prove guilt to the exclusion of reasonable doubt. Where, as here, the prosecution evidence is internally contradictory and lacking in independent corroboration, the constitutional presumption requires acquittal. After exhaustive consideration of all evidence, legal precedents,

constitutional principles, and the specific circumstances of this case, this Court concludes that the prosecution has fundamentally failed to establish the guilt of any appellant beyond reasonable doubt. The multiple contradictions, delayed implications, absence of forensic evidence, non-examination of key witnesses, and procedural violations collectively create a constellation of doubt that cannot be resolved in favor of conviction.

29. By separating the case of each accused; I would say that the delayed implication of Badal, appearing for the first time in a supplementary statement recorded over a month after the incident without any explanation for the prior omission, creates reasonable doubt that must be resolved in his favor. The failure to frame appropriate charges or ask relevant questions regarding the allegations attributed to him constitutes a denial of fair trial rights. For the remaining appellants, the lack of specific evidence establishing their individual roles, the absence of stolen property recovery, the defective charge sheet, and the complainant's own expression of no objection to their acquittal combine to make conviction legally unsustainable.

30. Therefore, exercising the powers vested in this Court under the Criminal Procedure Code and in accordance with the constitutional principles governing criminal justice, all criminal appeals are hereby allowed. The convictions and sentences awarded to Badal son of Akho Mal Menghwar, Bhorio son of Peemo, Khano son of Bhorio and Hawa Bai @ Horri w/o Bhorio Marwari vide judgment dated 30th March 2024 by the learned Additional Sessions Judge-IV, Khairpur in Sessions Case No.932 of 2015 is hereby set aside. Accordingly, all the appellants are acquitted of all charges leveled against them under Sections 365-B, 376(2), 148, 149, and 382 PPC and shall be released forthwith from custody if not required to be detained in connection with any other criminal case.

J U D G E