CERTIFICATE OF THE HIGH COURT OF SINDH, KARACHI

Sp ATA 107 to 109 of 2018

Rajab Ali & Another Vs The State

HIGH COURT OF SINDH

Composition of Bench. ***D.B.***

Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi

Dates of hearing: 14-05-2020

Decided on : 20-05-2020

(a) Judgment approved for Reporting *Yes*

CERTIFICATE.

Certified that the judgment */Order is based upon or enunciates a principle of law */decides a question of law which is of first impression/distinguishes/. Over-rules/ reverses/explains a previous decision.

* Strike out whichever is not applicable.

NOTE: - (i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used, the Reader must attach it to the top of the first page of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the Judgment is approved for reporting.

(iv) Those directions which are not to be used should be deleted.

PRESENTED 705
Dt. 13.03.2018
Dy. Registrar (Judl.)
857

IN THE HIGH COURT OF SINDH, AT KARACHI

Spl. Cr. Appeal No. 107 of 2018

Rajab Ali
son of Nawaz Ali, Muslim, adult,
R/o Katchi Abadi, Dunba Goth, Malir,
Karachi. ..... Appellant

FIR No.179 of 2014,
U/s 12/365-A/34 PPC
R/W Section 7 of ATA,
P.S Memon Goth, Karachi.

Versus

The State. ..... Respondent

APPEAL UNDER SECTION 25(1) ATA 1997

Being aggrieved and dissatisfied with the Judgment dated 26-02-2018, passed by the learned Anti-Terrorism Court-VIII, Karachi, in Special Case No.249 of 2015, [New Spl. Case No.204 of 2015 (The State v Rajab Ali & & others), whereby the Respondents were convicted and sentenced to imprisonment for life for the offence punishable under Section 7(1)(e) of ATA, 1997 read with Section 365-A/34 PPC. Accused Rajib Ali and Essa are further convicted and sentenced to undergo R.I for 14 years each and to pay fine of Rs.1,00,000/- each for offence punishable under Section 23(1)(a) of Sindh Arms Act, 2013. In case of their failure to pay the fine they would to suffer further imprisonment for 02 years. Since all the accused are convicted for the offence of kidnapping for ransom, they are also liable to forfeiture of

13-03-2018 706

IN THE HIGH COURT OF SINDH, AT KARACHI

Spl Cr. A/A No. 107 of 2018

Rajab
~~Sohail~~ Ali
son of Nawaz Ali, Muslim, adult,
R/o Katchi Abadi, Dunba Goth, Malir,
Karachi. ..... Appellant

FIR No.179 of 2014,
U/s 23(i)(a) of Sindh Arms Act
P.S Steel Town (AVCC), Karachi.

Versus

The State. ..... Respondent

APPEAL UNDER SECTION 25 D ATA 1997 [illegible]

Being aggrieved and dissatisfied with the Judgment dated 26-02-2018, passed by the learned Anti-Terrorism Court-VIII, Karachi, in Special Case No.249 of 2015, [New Spl. Case No.204 of 2015 (The State v Rajab Ali & & others), whereby the Respondents were convicted and sentenced to imprisonment for life for the offence punishable under Section 7(1)(e) of ATA, 1997 read with Section 365-A/34 PPC. Accused Rajib Ali and Essa are further convicted and sentenced to undergo R.I for 14 years each and to pay fine of Rs.1,00,000/- each for offence punishable under Section 23(1)(a) of Sindh Arms Act, 2013. In case of their failure to pay the fine they would to suffer further imprisonment for 02 years. Since all the accused are convicted for the offence of kidnapping for ransom, they are also liable to forfeiture of

PRESENTED 13-03-2018 707

IN THE HIGH COURT OF SINDH, AT KARACHI 899

Spl Cr. A(A) Appeal No. 101 of 2018

Essa
son of Nawaz Ali, Muslim, adult,
R/o Katchi Abadi, Dunba Goth, Malir,
Karachi. ..... Appellant

FIR No.180 of 2014,
U/s 12/365-A/34 PPC
U/s 23(i)(a) of Sindh Arms Act
P.S Steel Town (AVCC), Karachi.

Versus

The State. ..... Respondent

APPEAL UNDER SECTION 25 D ATA 1997.

Being aggrieved and dissatisfied with the Judgment dated 26-02-2018, passed by the learned Anti-Terrorism Court-VIII, Karachi, in Special Case No.249 of 2015, [New Spl. Case No.204 of 2015 (The State v Rajab Ali & & others), whereby the Respondents were convicted and sentenced to imprisonment for life for the offence punishable under Section 7(1)(e) of ATA, 1997 read with Section 365-A/34 PPC. Accused Rajib Ali and Essa are further convicted and sentenced to undergo R.I for 14 years each and to pay fine of Rs.1,00,000/- each for offence punishable under Section 23(1)(a) of Sindh Arms Act, 2013. In case of their failure to pay the fine they would to suffer further imprisonment for 02 years. Since all the accused are convicted for the offence of kidnapping for ransom, they are also liable to forfeiture of

Kidnap for Ransom upheld

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IN THE HIGH COURT OF SINDH AT KARACHI

Special Cr. Anti-Terrorism Appeal No.107 of 2018
Special Cr. Anti-Terrorism Appeal No.108 of 2018
Special Cr. Anti-Terrorism Appeal No.109 of 2018

Present:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi.

Appellants:	Rajab Ali son of Nawaz, and Essa son of Nawaz Ali through Syed Suleman Badshah, Advocate.
Respondent:	The State through Mr. Muhammad Iqbal Awan Deputy Prosecutor General Sindh
Date of hearing:	14.05.2020
Date of announcement	20.05.2020

JUDGMENT

Mohammad Karim Khan Agha, J.- Appellants Rajab Ali son of Nawaz and Essa son of Nawaz have preferred the above appeals against the impugned judgment dated 26.02.2018 passed by the learned Judge Anti-Terrorism Court No.VIII, Karachi in Special Case No.249/2015 (New Special Case No.204/2015) F.I.R. No.179/2014 u/s.365-A/34 PPC r/w section 7 of ATA, 1997, registered at PS Memon Goth, Karachi, Special Case No.250/2015 (New Special Case No.205/2015) F.I.R. No.179/2014 u/s.23 (i)(a) of Sindh Arms Act, registered at PS Steel Town, AVCC, Karachi and in Special Case No.251/2015 (New Special Case No.206/2015) F.I.R. No.180/2014 u/s.23(i) (a) of Sindh Arms Act, PS Steel Town, (AVCC), Karachi registered at PS Steel Town, Karachi whereby the appellants have been convicted to life imprisonment for offence u/s 7(1) (e) of ATA, 1997 r/w Section 365-A/34 PPC. Appellants Rajab Ali and Essa were further convicted and sentenced to undergo R.I. for 14 years each and to pay fine of Rs.10000/ each for offence punishable U/S 23(1)(a) of Sindh Arms Act, 2013. In case of their failure to pay the fines they would suffer further imprisonment for 02 years. Since all the accused are convicted for the offence of kidnapping for ransom, they are also liable to forfeiture of their property if any as provided u/s 7(2) of ATA, 1997. Both the sentences awarded to accused Rajab Ali and Essa shall run

concurrently. All the convicts are also extended benefit of section 382-B Cr.P.C for the period they remained in custody.

2. The brief facts of the prosecution case are that on 22.12.2014, at about 2200 hours, complainant Muhammad Afzal appeared at P.S Memon Goth, AVCC/CIA, Malir East Zone and lodged FIR, alleging therein that he along with his son Abu-Bakar own a cattle pond at main Super Highway, Qureshi Colony near Radio Pakistan. He disclosed that on 22.12.2014, at about 3-00 am his son Abu-Bakar left his house in Car No.AWZ-877 for going to his cattle pond. The complainant further stated that in the morning, one Shah Nawaz Jatoi, whose cattle pond is also situated in the same colony informed him on telephone that car No.AWZ-877 was standing near the colony check post and no person was available there. The complainant informed him that said car was with his son Abu-Bakar, who left the house at 3-00 am for going to his cattle pond. The complainant reached at the pointed place but his car was already taken by police at PS Memon Goth. The complainant further alleged that in the evening, at about 6-00 p.m, he received a telephone call from cell **No.0305-8096454** on his cell No.0300-2028313, and the caller informed him that his son was with them and he demanded ransom amount of Rs:4,00,00,000/- for his release and the complainant was also allowed to talk with his son. Thereafter, the complainant appeared at P.S and lodged FIR.

3. After usual investigation charge sheet was submitted against the appellants. Thereafter a joint charge under Section 7 (1)(e) of ATA 1997 and 23(i)(a) of Sindh Arms Act 2013 was framed against them. The appellants plead not guilty to the charge and claimed trial.

4. In order to prove its case the prosecution examined 09 PW's who exhibited various documents and other items in support of the prosecution case where after the prosecution closed its side. The accused persons recorded their statements under S.342 Cr.PC whereby they claimed their false implication in the case. They however did not examine themselves on oath or produce any witness in support of their defence case.

5. Learned Judge, Anti-Terrorism Court-VIII, Karachi, after hearing the learned counsel for the parties and assessment of evidence available on record, vide judgment dated 26.02.2018 convicted and sentenced the appellants as stated

above, hence these appeals have been separately filed by the appellants against their convictions. By this common judgment we intend to decide such appeals.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the judgment dated 26.02.2018 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. Learned counsel for the appellants contended that there was no evidence against either of the appellants who had been arrested from their houses and been falsely implicated in this case by the police and the complainant, that no one saw the abductee being kidnapped, that there was no evidence of any ransom demand, that no ransom had been paid, that the CDR exonerated the appellants as it showed that they were in Thatta at the time of their arrest, it did not appeal to reason that the abductee was kept captivity in a ditch and as such based on any of the above reasons the appellants should be acquitted of the charge by extending to them the benefit of the doubt or in the alternative convicted only of an offence under S.343 PPC.

8. On the other hand learned Deputy Prosecutor General has fully supported the impugned judgment and has contended that the eye witness abductee PW 2 Muhammed Abdu Bakar has fully implicated the appellants in his kidnapping for ransom, that the appellants were caught red handed by the police with the abductee where he was being held captive, that a ransom demand was made as was proven by the CDR and that both the appellants are responsible for the offence as they both played a role in the kidnapping for ransom and the prosecution had proved its case beyond a reasonable doubt against each of the appellants and as such the appeals of both the appellants should be dismissed. In support of his contentions he placed reliance on **Muhammad Rasool vs. The State** (2015 P.Cr.L.J 391), **Muhammad Siddique and others vs. The State** (2020 SCMR 342), **Said Muhammad vs. The State** (1999 SCMR 2758) and **Muhammad Akbar vs. The State** (1998 SCMR 2538).

9. We have heard the arguments of the learned counsel for the parties, gone through the entire evidence which has been read out by the

appellants, the impugned judgment with their able assistance and have considered the relevant law including that cited at the bar.

10. After our reassessment of the evidence we find that the prosecution has proved beyond a reasonable doubt the charges against both the appellants for the following reasons and uphold the impugned judgment;

(a) That the FIR was filed with promptitude on the same day against unknown persons and as such the there is no question of the complainant cooking up a false case against the appellants. Importantly the complainant states in the FIR the mobile phone number which was used to contact him for the ransom demand which later tied in with the CDR of one of the kidnappers and his story is corroborated by PW 3 Shahnawaz Jatoi who is named in the FIR and is not a chance witness as he also had a cattle pond in the same area as the complainant and is an independent witness who had no reason to falsely implicate anyone as well as the abductee. His FIR is also in consonance with his later evidence at trial as PW 1 being the complainant before the court. Even otherwise the complainant had no enmity with any of the appellants and had no reason to falsely implicate any of them in this case. In the FIR he nominates unknown persons which would not have been the case if he wanted to fix the appellants through a false case.

(b) **In our view the key prosecution witness is eye witness abductee PW 2 Muhammed Abdu Bakar.** According to his evidence he left his house at 03am to go to his cattle pond situated in Quershi Colony in car bearing Registration no.AWZ 877 which was his father's car. His car was stopped near a check post and he was taken out of his car by three men with muffled faces with weapons. Initially he was made to sit on a motor bike and was then put in a car where he was taken to a hut type house and confined in a room for some days. He was tied with a chain and made to speak to his father and demand RS 4 crore for his safe release. Three days before his recovery he was taken to a ditch type place where he was made to sit where 3 persons with firearms guarded him. According to his evidence some other persons also used to come there with weapons. On 28.12.2014 in the evening time he was rescued by the police who arrested on the spot the 3 persons guarding him and he was then taken to AVCC police station. On 04.02.2015 he was informed by the police that one of his abductors had been killed in a police encounter and he was asked to identify the body. He identified the dead body as one of his kidnappers as Abdul Raheem. He identified both the appellants in court as two of the persons who used to guard him whilst he was in captivity and bring him food. **In his evidence he states that the blind folds were removed when he was given his meal and that the appellants used to remain with him in and**

around the ditch and they were also with him in the hut where he was initially detained. In this case the abductee remained with the appellants for 6 days and at close quarters and was not blind folded the whole time and as such would have got a good look at the appellants during day light hours for a considerable period of time. He recognized both the appellants in the court as being the persons who guarded him whilst he was kidnapped and held in captivity who were arrested on the spot by the police and thus he would have been able to easily correctly identify his abductors. In such facts and circumstances in a kidnapping for ransom case the superior courts have held that identification parades are not mandatory. In this respect reliance is placed on the case of **Zakir Khan and others v. The State** (1995 SCMR 1793) which held as under;

> *"A clear distinction was drawn between the circumstances where the witness only gets a glimpse of the accused who happened to be a stranger to him and where although the witness had met the accused for the first time but he had seen him several times. It was held that in the latter case the necessity of holding an identification parade could be dispensed with and the accused could even be identified in the Court for the first time. In the present case the kidnapee had remained with the accused sufficiently long not only to identify them by their faces but to identify them even by their names.* ***This is not a case where a witness had only gotten a glimpse of the accused but in this case, admittedly he had remained with them during his captivity and had clearly seen their faces. Therefore, in our opinion, holding of an identification parade was not a mandatory requirement in the present case. The contention raised by the learned counsel for the appellants therefore, has very little force."*** *(bold added)*

Like wise the same was held by the supreme court in **Muhammed Akbar's case** (Supra).With regard to an abductee identifying his captors it was held as under in **Muhammed Rasool's case**(Supra) at P.339 Para.13

> *" Now what remains to be seen is whether there is any evidence against the appellants/convicts which could justify that they were the culprits who abducted the abductees. It is settled principle of law that evidence of the abductees regarding identification of culprits/abductors is always safe to be believed if same qualifies the test of being natural and confidence inspiring."*

The abductee had no enmity with the appellants and had no reason to falsely implicate them in this case. He was not shattered despite a lengthy cross examination and thus we believe the evidence of the **eye witness abductee PW 2 Muhammed Abdu Bakar which we find reliable, trust worthy and confidence inspiring and find that he has correctly identified the appellants as two of the kidnappers**

involved in his kidnapping for ransom by guarding and feeding him

It is settled law that we can convict if we find the direct oral evidence of **one eye witness** to be reliable, trust worthy and confidence inspiring. In this respect reliance is placed on **Muhammad Ehsan V The State** (2006 SCMR 1857). The supreme court in the case of **Niaz-Ud-Din V The State** (2011 SCMR 725) has also held as under in respect of the ability of the court to uphold a conviction for murder even based on the evidence of **one eye witness** provided that it was reliable and confidence inspiring and was substantiated from the circumstances and other evidence since it is the quality and not the quantity of evidence which matters;

> *"11. The statement of Israeel (P.W.9) the eye-witness of the occurrence is confidence inspiring, which stands substantiated from the circumstances and other evidence. **There is apt observations appearing in Allah Bakhsh v. Shammi and others (PLD 1980 SC 225) that "even in a murder case conviction can be based on the testimony of a single witness, if the Court is satisfied that he is reliable." The reason being that it is the quality of evidence and not the quantity which matter.** Therefore, we are left with no doubt whatsoever that conviction of Niaz-ud-Din was fully justified and has rightly been maintained by the High Court."* (bold added)

As mentioned above in this case we find the abducted **eye witness abductee PW 2 Muhammed Abdu Bakar**'s evidence to be reliable, trust worthy and confidence inspiring and we believe his evidence in its entirely **including** his correct identification of the appellants named above as being his guards during his captivity.

Never the less by way of abundant caution we will consider below whether any corroborative/supportive evidence is available in respect of the direct oral eye witness evidence.

(c) **The appellants were arrested on the spot at the time when the abductee was recovered by the police** being PW 5 Muhammed Anwar and PW 6 Ghulan Asghar whose evidence corroborates each other in all material respects and also that of the abductee regarding his rescue. It is also **significant that CPLC officials** were also present at the time of the arrest of the appellants and rescue of the abductee. It is well settled by now that the evidence of a police witness is as reliable as any other witness provided that no enmity exists between them and the accused and in this case no enmity has been suggested against any of the police PW's and as such the police had no reason to implicate the appellants in a false case. Even in their section 342 Cr.PC statements the appellants admit that they have no enmity with the police. Thus we believe the police evidence which is corroborative in all material respects. Reliance in this respect is placed on the unreported recent Supreme Court case of **Mushtaq Ahmed V The State** dated 09-01-2020 in Criminal

Petition No.370 of 2019 where it was held in material part as under at para 3;

> *"Prosecution case is hinged upon the statements of Aamir Masood, TSI (PW-2) and Abid Hussain, 336-C (PW-3); being officials of the Republic, they do not seem to have an axe to grind against the petitioner, intercepted at a public place during routine search. Contraband, considerable in quantity, cannot be possibly foisted to fabricate a fake charge, that too, without any apparent reason; while furnishing evidence, both the witnesses remained throughout consistent and confidence inspiring and as such can be relied upon without a demur."*

(d) At the time of the appellants arrest unlicensed pistols were recovered from them which fits in with them being guards of the abductee as per the evidence of the abductee.

(e) That at the time of arrest on the spot of the appellants and the rescue of the accused the police also recovered the lock and chain which fits in with the abductees story as to how he was tied up during captivity.

(f) That all the PW's are consistent and corroborative in their evidence and even if there are some contradictions in their evidence we consider these contradictions as minor in nature and not material and certainly not of such materiality so as to effect the prosecution case and the conviction of the appellants. In this respect reliance is placed on **Zakir Khan V State** (1995 SCMR 1793). Their evidence provides a believable corroborated unbroken chain of events from the kidnapping of the complainant in his car on the way to the cattle pond, to the demand for ransom, to his captivity, to his rescue by the police and the arrest of the accused on the spot.

(g) The car which was being driven by the abductee and which belonged to his father was recovered where the abductee claims he was kidnapped from which is corroborated by PW 3 Tariq Nawaz and the complainant.

(h) It is well settled by now that once a demand for ransom is made then this fulfills the legal ingredients under S.365 A PPC of kidnapping for ransom whether or not any ransom is paid. In this respect reliance is placed on **Sh.Muhammed Amjad V The State** (PLD 2003 SC 704). In this case the abductee states that he informed the ransom demand to his father as instructed by his captors whose evidence we believe having already found it to be trust worthy reliable and confidence inspiring which is corroborated in both the FIR and his fathers evidence which we also believe having found the same to be trust worthy reliable and confidence inspiring. Such demand is also corroborated by the fact that the abductee identified the dead body of one of his kidnappers as Abdul Raheem whose mobile phone number as per the recovered CDR was used to call the complainant for the ransom demand which is the same number as is mentioned at

the very beginning in the FIR which provides a direct link to the appellants who were also part of the kidnapping gang albeit their roles were as guards and feeders of the abductee. It also does not appeal to reason, logic or commonsense that a person would be abducted by others who had no enmity with him and was simply held in captivity for 6 days in miserable conditions and being fed and guarded at the expense of that some body else for no reason until he was released during a police raid **unless** those persons wanted something for his return. The only reasonable inference is that such person (abductee) based on the particular facts and circumstances of this case was held in captivity until a ransom of some kind was paid for his safe return.

(i) It is settled by now that any person who plays a role in a kidnapping for ransom case, **however minor,** is equally as liable as the other co-accused. In this respect reliance is placed on **Khawaja Hasanullah v. The State** (1999 MLD 514), where it was held as under at P.524;

> *"In cases of abduction for ransom, it is not necessary that all the culprits must have collectively done all the criminal acts together from the stage of abduction till extortion of money. In such cases mostly, the work is divided. Abduction is done by a few of them, place of confinement is guarded by others and ransom is extorted by one or two of them.* ***This is done under a planning. The object of all is to extort money. Therefore, the punishment could be the same irrespective of the role played by each of them".*** (bold added)

Likewise in the case of **Said Muhammad** (supra) it was held as under at page 2759 paras-2 and 3:-

> *"Three persons were abducted namely, Ghulam Mohyuddin, Khalid Mahmood and Abdur Rehman on 25.4.1991. After a few days, two of the abductees namely, Abdur Rehman and Ghulam Mohyuddin were released but abductee Khalid Mahmood was not released and, till the disposal of the case, the whereabouts of Khalid Mahmood were not known.* ***Appellant Said Muhammad was not present at the time of actual abduction had taken place. The main culprits were Ghulam Muhammad and Faiz Muhammad who were tried in absentia,*** *as observed earlier, and three others namely, Dost Muhammad, Abdul Khalid and Aziz Ullah who could not be apprehended but some time later they were killed in a police encounter.*
>
> ***The role assigned to appellant Said Muhammad is that, after the main culprits had abducted the three abductees and were taking them in a vehicle, on the way, Said Muhammad was stationed who told the abductors that the passage was clear. From the***

evidence the involvement of Said Muhammad in the offence is established as has been found by the trial Court and confirmed by the High Court. *In the circumstances of the case, Ch. Muhammad Akram, learned counsel for the appellant,* ***has not pressed this appeal on merits but only argued the appeal on the question of sentence.*** *According to learned counsel, it was a fit case where appellant Said Muhammad should have been awarded the lesser sentence.*

In present case it would appear from the evidence that the leading part in the abduction was that of the co-accused and compared to their role, the role of appellant Said Muhammad was minor in nature. *In the facts and circumstances of this case, we are of the view that a distinction can be made in the case of the present appellant in so far as the question of sentence is concerned. Reference in this regard can be made to a judgment of this Court in the case Shafoo v. State (1968 SCMR 719).*(bold added)

(j) The evidence of the prosecution witnesses corroborates each other in all material respects. Even the evidence of police witnesses can be safely relied upon since no allegation of enmity, bias or ill will has been made against any of them and as such they had no reason to falsely implicate the appellants in this case. In this respect reliance is placed on **Zafar V State** (2008 SCMR 1254)

(k) Although we have found that the prosecution has proved its case against all the appellants beyond a reasonable doubt we have also considered the defence cases of the appellants. According to appellants their defence is essentially two fold. Firstly that the abductee was kidnapped but this was by other persons whom they owed money too (and as such the appellants have not disputed the kidnapping) and secondly that they were arrested from their homes and not from the spot and were not part of the kidnapping gang. None of the appellants gave evidence on oath or called any defence witness in support of their defence case. The CDR does not show that the appellants were in Thatta when they were arrested and since they admit in their S.342 statements that they had no enmity with the police the police had no reason to implicate them in a false case, that the appellants were only kept in a ditch part of the time and the rest of the time they were kept in a hut which appeals to reason and as such we disbelieve the defence case.

(l) In kidnapping for ransom cases courts need to take a dynamic approach in assessing the evidence. In the case of **Advocate General Sindh, Karachi v. Farman Hussain and others** (PLD 1995 SC 1), in a kidnapping for ransom case it was observed as under:-

> *"It is a matter of public knowledge that in Sindh, on account of* ***kidnapping for ransom****, commission of dacoities and other offences, the people are feeling unsecured. The learned trial court has dilated upon these aspects in detail. I am inclined to subscribe to the view found favour with it.* ***The approach of the Court in matters like the case in hand should be dynamic and if the Court is satisfied that the offence has been committed in the manner in which it has been alleged by the prosecution the technicalities should be overlooked without causing any miscarriage of justice".*** (bold added).

11. Thus, based on the above discussion especially in the face of reliable, trust worthy and confidence inspiring eye witness evidence of the abductee and other corroborative/supportive evidence mentioned above we find that the prosecution has proved its case against the appellants beyond a reasonable doubt and as such the appeals against conviction filed by both the appellants (namely, Rajab Ali and Essa) are dismissed and the impugned judgment is upheld.

12. The appeals are disposed of in the above terms.

MAK/PS