

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Criminal Jail Appeal No.S-21 of 2023**

**Appellant** Ghulam Abbas @ Papu son of Shah Nawaz bycaste Mirjat, **through** Mr. Achar Khan Gabole, advocate.

**The State** **Through** Mr. Aftab Ahmed Shar, Additional Prosecutor General for the State.

**Date of hearing** 29-11-2023

**Date of decision** 29-11-2023.

**JUDGMENT**

**IRSHAD ALI SHAH, J-** It is alleged that the appellant with two unknown culprits in furtherance of their common intention subjected Mst. Rehana a blind girl to rape, for that the present case was registered. On conclusion of trial, the appellant was convicted u/s 376 (i) PPC and sentenced to undergo R.I for ten years with fine of Rs. 50,000/- and in default whereof to undergo simple imprisonment for three months with benefit of section 382 (b) Cr.P.C by learned IVth Additional Sessions Judge/Gender Based Violence Court, Khairpur vide judgment dated 20-01-2023, which the appellant has impugned before this Court by preferring the instant Crl. Jail Appeal.

2. At the very outset, it is pointed out by learned counsel for the appellant that statement of the appellant recorded u/s 342 Cr.P.C does not bear the signature of presiding officer of learned trial Court, which prima-facie suggests that it was not recorded. By pointing out so, he suggested for remand of the case to learned trial Court with direction to make fresh disposal of the case after recording statement of the appellant u/s 342 Cr.P.C afresh, which is not opposed by learned Additional Prosecutor General for the State.

3. Heard arguments and perused the record.

4. Admittedly the statement of the appellant recorded u/s 342 Cr.P.C is not bearing the signature of learned trial Judge. No doubt certificate to such statement is appended and it bears the signature of learned trial Judge, but it does not fulfill the requirement of law. The omission which is pointed about by learned counsel for the appellant being incurable in terms of section 537 Cr.PC has occasioned in failure of justice; consequently the conviction and sentence awarded to the appellant under impugned judgment is set aside with direction to learned trial Court to record statement of the appellant under section 342 Cr.P.C in accordance with law and then to make disposal of the case against him afresh, preferably within two months after receipt of copy of this judgment by providing chance of hearing to all the concerned.

5. The instant Criminal Jail Appeal is disposed of accordingly.

**J U D G E**

*Nasin/P.A*