

IN THE HIGH COURT OF SINDH, KARACHI

Sp.Cr.A.T.A.No.20 of 2007

PRESENT:

MR. JUSTICE GULZAR AHMED &

MR. JUSTICE IRFAN SAADAT KHAN

J U D G M E N T

Date of hearing : 26 January 2010.

Appellant through : Mr. Javed Chattari, Advocate.

Respondent through : Mr. Muhammad Iqbal Awan, A.P.G.

**GULZAR AHMED, J:-** By this appeal Appellant Tariq Aziz has challenged the judgment dated 05<sup>th</sup> May 2007 passed by the learned Judge, Anti-Terrorism Court No.1, Karachi by which the appellant was convicted and sentenced to imprisonment for life and forfeiture of properties to the extent of Rs.500,000/- (Rupees five lacs) for offence under Section 7(e) of the Anti-Terrorism Act, 1997 with benefit of Section 382-B, Cr.P.C.

The allegations against appellant is that he alongwith other co-accused had abducted Hamid Umer Sameen from Karachi and took him near Peshawar, who was later-on recovered from the Hujra of co-accused Fazal Rabbi.

Learned counsel for the appellants has read the evidence of nine prosecution witnesses, including that of the abductee and his father. On reading of such evidence it has transpired that the case against appellant is at best that of abduction simplicitor and not abduction for ransom as neither the abductee nor his father or any one of the prosecution witnesses has stated in evidence that any demand for ransom was made by the accused involved in the abduction of Hamid Umer Sameen. Learned APG also frankly concedes to such position and states that there is no evidence on the record which may establish the fact that any demand for ransom was made by the accused for the release of the abductee.

In this view of the matter it becomes apparent that the case against appellant would be that of under Section 365 PPC, which is triable by the Sessions Judge and provisions of Anti-Terrorism Act, 1997 will not be attracted. Such legal position

is also conceded by the learned APG. Counsel for the appellant states that conviction and sentence of the appellant may be converted to that of 365 PPC and the impugned judgment may be modified accordingly.

Consequently, we are satisfied that the case of appellant falls within the ambit of Section 365 PPC of simplicitor abduction and not that of abduction for ransom.

In view of the above observation, we convert the conviction and sentence of appellant to that of seven years R.I. under section 365 PPC and fine of Rs. 50,000/- and in case of default in payment of fine, further R.I. of one year, with benefit of section 382-B Cr.P.C. and remissions as admissible under the law. With the above modification in the impugned judgment the appeal stands disposed off.

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Aamir/PS