

**THE HIGH COURT OF SINDH, BENCH AT  
SUKKUR**

***Criminal Jail Appeal No.S-97 of 2023***

Appellants: Muhammad Ali Bhatti and Sabir Ali Shah through Mr. Rukhsar Ahmed Junejo, Advocate.

Complainant: Mr. Khalid Hussain through Mr. Muhammad Imran Khan, Advocate.

Respondent: The State through Syed Sardar Ali Shah Additional. P.G. Sindh.

Date of hearing: 27.02.2025.

Date of Judgment: 27.02.2025.

**J U D G M E N T**

**Riazat Ali Sahar, J.** Muhammad Ali Bhatti and Sabir Ali Shah, the appellants, have challenged the judgment dated 23-09-2023 passed by the learned Additional Sessions Judge-II, Mirpur Mathelo, District Ghotki, in Sessions Case No. 329 of 2020, arising out of Crime No. 20 of 2020, registered at Police Station Reti, offence punishable under section 365-B of the Pakistan Penal Code (P.P.C.). Upon the conclusion of the trial, the learned trial court convicted the appellants under section 365-B, P.P.C., sentencing them to life imprisonment. Additionally, they were ordered to pay a fine of Rs. 200,000/- (two hundred thousand) each, failing which they were directed to undergo six months' simple imprisonment (S.I.) as a default sentence. Furthermore, the appellants were directed to pay compensation to the victim, Mst. Irfana, amounting to Rs. 500,000/- (five hundred thousand) each, In the event of non-

payment, they were further sentenced to undergo two years' simple imprisonment (S.I.), and the compensation was ordered to be recovered as arrears of land revenue under section 544-A(2) Cr.P.C. However, the benefit of section 382-B Cr.P.C. was also extended to the appellants.

2. The prosecution's case, as set forth in the FIR lodged on 22-06-2020 by the complainant Imam Bux at Police Station Reti, is that on 11-06-2020, Muhammad Ali and Sabir Ali Shah visited his house as guests in the evening and left early the next morning. Subsequently, on 15-06-2020, at approximately 10:00 p.m., while Imam Bux was at home with his brother Shabeer Ahmed, wife Mst. Naseem, and daughter Mst. Irfana, they heard the sound of a motorcycle outside. Moments later, two individuals entered the house, whom they identified under the illumination of solar bulb lights as Muhammad Ali, son of an unknown Bhatti, armed with a pistol, and Sabir Ali Shah, son of an unknown, by caste Syed, resident of Village Noorpur Sharif, District Khairpur. It is alleged that Muhammad Ali pointed a pistol at the family while forcibly grabbing the arms of Mst. Irfana, who was approximately 16-17 years old, and dragged her outside to a nearby parked motorcycle. The accused then fled the scene, kidnapping her. Due to fear of the armed assailants, the family remained silent at that moment. The following morning, the complainant and his brother approached the accused at their residences, demanding the

return of Mst. Irfana. Initially, they were given assurances, but later, the accused outrightly refused to return her. Consequently, Imam Bux lodged the instant FIR with the police.

2. After completing the usual investigation challan was submitted against the appellants and trial Court framed charge against them to which they pleaded not guilty and claimed trial.

3. In order to establish its case, the prosecution examined seven witnesses, each of whom provided testimony relevant to the matter. The witnesses included:

**PW-1 Dr. Shakeela Parveen**

**PW-2 Complainant Imam Bux Bhatti**

**PW-3 Eyewitness Ghulam Shabbir**

**PW-4 Victim Mst. Irfana**

**PW-5 Investigating Officer ASI Muhammad Hanif Rind**

**PW-6 Mashir P.C. Mashooque Ali Khambhro**

**PW-7 Mashir P.C. Muhammad Ameen**

The prosecution also produced all the requisite documentary evidence to substantiate its case. Upon completion of the prosecution's case, the learned Deputy District Public Prosecutor (DDPP) formally closed the prosecution's side of evidence.

4. During the trial, the trial court recorded the statements of the accused under Section 342 of the Code of

Criminal Procedure (Cr.P.C.), wherein they pleaded innocence and claimed to have been falsely implicated in the case. Appellant Muhammad Ali, in his statement, asserted that he had been falsely implicated due to a pre-existing dispute between the complainant and co-accused Sabir Ali Shah. He claimed that he and Sabir Ali were affiliated with Dargah Noorpur Sharif, which the complainant's family regularly visited. According to him, the complainant had initially agreed to the marriage of his daughter, Mst. Irfana, with Sabir Ali but later withdrew consent. He further stated that he was unlawfully detained by the police at Police Station Reti, prompting his son, Ghulam Jaffar, to file an application under Section 491 Cr.P.C. before the Honourable Court, challenging his illegal detention. Subsequently, on 27-06-2020, the Station House Officer (SHO) submitted a report stating that Muhammad Ali had been arrested on 26-06-2020 in connection with the present case. In support of his claim, he produced certified copies of the application under Section 491 Cr.P.C. and the corresponding court order. On the other hand, appellant Sabir Ali Shah, in his statement, contended that approximately three months before the lodging of the FIR, the complainant's family had consented to his marriage with Mst. Irfana, but later retracted their consent. He alleged that Mst. Irfana voluntarily left her parental home, and on 16-06-2020, she solemnised Nikah with him. He claimed that the complainant, in retaliation, filed a false FIR against them. To counter the allegations, he and his wife held a press conference, which was reported in the daily newspaper "Panhinji Akhbar" on 14-06-

2020. He further stated that due to alleged police harassment, they filed Criminal Miscellaneous Application No. 1708 of 2020 against the SHO of Police Station Reti and others before the Sessions Judge/Justice of Peace, Ghotki. However, the said application was dismissed for non-prosecution on 08-08-2020, as they had been arrested by that time. Sabir Ali Shah maintained that his marriage to Mst. Irfana remains valid and prayed for justice. In support of his contentions, he produced copies of the Nikahnama, newspaper reports, criminal miscellaneous application, and the relevant court order.

5. The learned trial judge, after hearing the arguments of the learned counsel for both parties and carefully examining the evidence available on record, convicted and sentenced the appellants as detailed above through the impugned judgment dated 23.09.2023. Aggrieved by this decision, the appellants have preferred the instant Criminal Jail Appeal challenging the said judgment.

6. Mr. Rukhsar Ahmed Junejo, learned counsel for the appellants, emphatically argued that his clients have been falsely implicated in the present case by the complainant. He contended that there was an unexplained delay of approximately seven days in the lodging of the FIR, which raises serious doubts regarding the credibility of the prosecution's case and suggests possible consultation and deliberation before filing the complaint. He further submitted that the witnesses examined by the prosecution are closely related to the complainant, and

despite the alleged incident occurring in a populated area, no independent witnesses from the vicinity were produced to corroborate the complainant's version. Additionally, he highlighted several inconsistencies between the eyewitness testimonies and the medical evidence, further weakening the prosecution's case. The learned counsel also contended that three months prior to the filing of the FIR, the complainant's family had consented to the marriage of Irfana to Sabir Ali but later reneged due to greed. Subsequently, Mst. Irfana voluntarily left her parental home and solemnised Nikah with Sabir Ali on 16-06-2020, a fact substantiated by the Nikahnama produced before the trial court as Exhibit 14/A. He argued that this marriage antagonized the complainant's family, prompting them to maliciously register a false FIR against the appellants. To further support his argument, he pointed out that after the lodging of the FIR, Mst. Irfana and Sabir Ali held a press conference, wherein they publicly declared their marriage, and their statements were subsequently published in the daily newspaper "Panhinji Akhbar" on 14-06-2020, which was made part of the trial record as Exhibit 14/B. He also referred to the fact that Mst. Irfana and appellant Sabir Ali jointly filed an application against harassment before the Honourable Sessions Judge, Ghotki, wherein both submitted affidavits affirming their stance and asserting that no abduction had taken place. Additionally, he pointed out that the medical officer's examination did not reveal any evidence of recent coitus, suggesting that no cohabitation between the spouses had

occurred. This, he argued, further negates the prosecution's allegations of abduction and any non-consensual act. The learned counsel contended that the entire prosecution case is riddled with serious doubts and, in light of the well-established legal principle that any benefit of doubt must be extended to the accused, he prayed for the acquittal of the appellants.

7. Syed Sardar Ali Shah, Additional Prosecutor General, Sindh, representing the State, argued that the appellants were directly involved in the kidnapping of the victim, Irfana, and that the prosecution had successfully established its case through substantial and convincing evidence. He submitted that the incident was directly witnessed by the complainant, Imam Bux, and the eyewitness, Ghulam Shabir, both of whom provided clear and unequivocal testimonies in support of the prosecution's case. Their statements were further corroborated by the victim, Mst. Irfana, thereby strengthening the prosecution's case against the appellants. The learned Additional Prosecutor General further contended that there were no material contradictions in the evidence that could cast doubt on the credibility of the prosecution witnesses. He emphasized that their testimonies were consistent, reliable, and free from discrepancies, thereby conclusively establishing the appellants' involvement in the alleged offence. Lastly, he asserted that the prosecution had proved its case beyond any reasonable doubt, leaving no room for acquittal of the appellants. Given the weight of evidence against them, he maintained that the impugned judgment required no

interference by this Honourable Court and that the instant criminal jail appeal was liable to be dismissed.

8. I have given due consideration to the arguments advanced by the learned counsel for both the parties and have meticulously examined the material available on record, including the precedents cited in support of their respective contentions.

9. In the present case, the complainant, Imam Bux, has alleged that the appellants trespassed into his house and abducted his daughter, Irfana, with the intent to compel her into a forced marriage or subject her to illicit intercourse against her will. To substantiate these allegations, the prosecution examined seven witnesses, including **PW-01 Dr. Shakeela Parveen**, who was serving as a Senior Women Medical Officer at Taluka Hospital, Daharki at the relevant time. In her deposition, she stated that on 08-08-2020, the police of Police Station Reti referred the victim, Mst. Irfana, to her for medical examination, treatment, and issuance of a Medico-Legal Certificate, mentioning in the referral letter that the victim's age was 12 years. She examined the victim upon her arrival at the hospital at 4:00 p.m. and, based on physical and external examination, found her in a normal condition, with no visible injuries on her body. As part of the examination, she collected cotton vaginal swabs (internal and external), as well as blood and urine specimens, and sent them for chemical analysis by the Chemical Examiner. Upon receiving the Chemical Examiner's report, she



issued a medical certificate, concluding that there was **no evidence of recent coitus**. However, during cross-examination, the medical officer admitted that the victim did not complain of any physical torture. She also acknowledged that an injury inside the vagina was found at the time of her examination. Furthermore, she stated that since the police had recorded the victim's age as 12 years, she referred her to Ghulam Muhammad Mahar Medical College (GMMC), Sukkur, for an age determination assessment. As per the opinion of the radiologist and other experts, the victim's age was determined to be approximately 19 years.

10. In his statement, **the complainant, Imam Bux**, deposed that the incident took place on 11-06-2020. He stated that the accused, Muhammad Ali and Sabir Ali, initially visited his home as guests, had dinner, and stayed overnight. However, on 15-06-2020, at approximately 10:00 p.m., they returned, this time armed with a pistol. According to the complainant, Muhammad Ali pointed the pistol at them, while Sabir Ali restrained his daughter, Mst. Irfana. The accused then allegedly forced Mst. Irfana onto a motorcycle and abducted her. At the time of the incident, the complainant, his brother Shabir Ahmed, his wife Mst. Naseema, and Mst. Irfana were present. Despite their pleas, the accused did not return Mst. Irfana. Subsequently, on 22-06-2020, at 16:00 hours, the complainant registered the FIR, which he produced before the Court as Exhibit 6/A. He further deposed

that the police visited the scene of the incident and that he identified the accused present in court as the perpetrators.

**11. During cross-examination, the complainant admitted** that he was not familiar with the accused before they arrived at his house as guests. He stated that his house is in an isolated location, with no other houses nearby. The accused, being strangers, arrived in the evening and requested tea and meals, which he provided. Upon their request, they stayed for the night, sleeping outside in the open. He further clarified that no one else in the area was acquainted with the accused, nor were they introduced by anyone except himself and his brother, Shabir Ahmed. Regarding the incident itself, he testified that he and his family heard the sound of a motorcycle, after which the accused entered the house through an open door. Muhammad Ali led the way, followed by Sabir Ali. At the time, only he, his brother, his wife, and his daughter were present in the house. He admitted that they did not resist the accused, voluntarily stating that they remained silent out of fear, as the accused were armed with pistols. He added that, although they raised cries for help, no one came to their aid since their house was isolated. He confirmed that there was a common road near their house, from where the accused had approached, and a railway line about one “jareb” away from their residence.

**12. The complainant denied several suggestions made by the** defence, including claims that he and the accused were devotees of Dargah Noorpur Sharif, District Khairpur Mirs, or that they

had frequent interactions in the past. He further denied the suggestion that he had consented to giving his daughter's hand in marriage to Sabir Ali and later withdrew his consent. Regarding the delay in filing the FIR, he stated that after the accused abducted his daughter, he did not immediately inform the police, as the accused had given him false assurances that they would return her. He admitted that in his FIR, he mentioned Mst. Irfana's age as 16-17 years. However, he also acknowledged that NADRA records, specifically the B-Form, recorded her age as 12 years. He further admitted that he obtained the B-Form after registering the FIR. The complainant denied several other defence contentions, including:

- That Mst. Irfana had willingly left his home and contracted marriage with Sabir Ali.
- That she had filed a petition for protection and harassment before the Sessions Court, Ghotki.
- That she had submitted a free-will affidavit before the Justice of Peace, Ghotki.
- That she never filed any suit against Sabir Ali before the Family Court.

13. He further admitted that after her recovery, Mst. Irfana remained at the police station for 7-8 days, after which she was produced before the Magistrate for recording her statement under Section 164 Cr.P.C. During that period, they visited her at the police station. He also stated that he was unaware of whether the lady doctor who examined Mst. Irfana had referred her to Sukkur Hospital for age determination, but admitted that medical

experts later determined her age to be 18-19 years. Lastly, he denied the suggestion that Muhammad Ali was much older and that he had past acquaintance with him. He also denied that Mst. Irfana had contracted a free-will marriage with Sabir Ali and that, under pressure and influence, she was returned to him and tutored before recording her **statement under Section 164 Cr.P.C.** He maintained that the case was genuine and not fabricated, and rejected the suggestion that he was giving false evidence.

14. **Eyewitness Ghulam Shabbir**, in his testimony, corroborated the details provided by the complainant. He stated that on 11-06-2020, the accused, Muhammad Ali and Sabir Ali, visited their house as guests and stayed overnight. He further testified that the accused returned on 15-06-2020, at approximately 10:00 p.m., at which time Muhammad Ali was armed with a pistol, while Sabir Ali was unarmed. He deposed that the accused forcibly abducted Mst. Irfana, with Sabir Ali restraining her, while Muhammad Ali pointed a pistol at them, preventing any resistance. He further stated that on the following day, the family pleaded with the accused for her return, but they refused. Subsequently, on 22-06-2020, the complainant lodged the FIR. The witness also stated that he acted as a mashir (witness) for the place of the incident, the recovery of Mst. Irfana, and the arrest of the accused. He testified that on 08-08-2020, at approximately 5:00 a.m., he accompanied the police to the house of accused Sabir Ali, where

Mst. Irfana was recovered, and Sabir Ali was arrested. He further stated that mashirnamas were prepared in his presence for these events. During cross-examination, he denied the suggestion that the accused were followers of the same Peer as him. He also denied the suggestion that outsiders are never allowed to stay at someone's home without prior familiarity. However, he voluntarily stated that the accused introduced themselves as travelers and requested permission to stay at his house, which is why he allowed them to stay in the veranda. He admitted that in his previous statement, he did not mention that the accused had approached them as travelers. He further denied the suggestion that before the incident, his brother Imam Bux had agreed to give Mst. Irfana's hand in marriage to Sabir Ali and later withdrew from this commitment. He also denied that Mst. Irfana willingly left with Sabir Ali to solemnize Nikah and execute an affidavit of free will. He admitted that he and his brother resided in the same house and later came to know that Sabir Ali had married Mst. Irfana. However, he clarified that they do not belong to any village but live in a separate and independent house. Regarding the incident itself, he admitted that no one else came to the scene at the time, but he voluntarily stated that their house is independent and separate from others. He also admitted that no family member physically resisted the abduction when it occurred. Lastly, he denied the suggestion that Mst. Irfana was not abducted and instead willingly left with Sabir Ali to solemnize Nikah.

15. The **star witness**, victim Mst. Irfana, in her deposition, testified that on 11-06-2020, the accused Muhammad Ali and Sabir Ali visited their house as guests and left the following morning. She further deposed that on 15-06-2020, while she and her family were inside their house, the accused forcefully entered. She stated that Muhammad Ali was armed with a pistol, and Sabir Ali forcibly grabbed her arm and took her to a cattle pond near Noor Pur Dargah, where Muhammad Ali, Sabir Ali, and one Naki Mughal allegedly committed Zina with her. She further stated that Sabir Ali pressured her to marry him, and when she refused, she was intoxicated, tortured, and forcibly made to solemnize Nikah with him. She claimed that the accused forced her to make a false statement to the media, compelling her to declare that she had married Sabir Ali of her own free will, all under coercion and violence. The victim further testified that on **08-08-2020**, at approximately 5:00 a.m., the police arrested accused Sabir Ali and recovered her. She was then taken to the police station, where her statement was recorded, and she also underwent a medical examination. On **11-08-2020**, she was produced before a Judicial Magistrate in Daharki, where her **statement under Section 164 Cr.P.C.** was formally recorded. It becomes pertinent to observe that the statement of the alleged abductee, Mst. Irfana, recorded under Section 164 of the Criminal Procedure Code, was delayed by a period of three days following

her recovery. Such an unexplained delay significantly diminishes the evidentiary value of the statement and casts serious doubt upon its veracity and spontaneity, thereby affecting its credibility in the eyes of the law. During her testimony, she identified the accused Sabir Ali and Muhammad Ali, present in court, as the same individuals involved in the crime. She further deposed that accused Naki Mughal was not present in court.

During cross-examination, she deposed as follows:

- “The guests who came to our house were made to sit outside the house. There are hedges surrounding our house. The guests sat outside the hedges. They sat in an otaque outside the house.”
- She denied the suggestion that she had ever visited Dargah Noor Pur Sharif prior to the incident.
- She denied the suggestion that accused Muhammad Ali Bhatti was their relative.
- She denied the suggestion that she and her parents had prior visiting terms with accused Muhammad Ali at his house near Dargah Noor Pur Sharif.
- She denied the suggestion that her father had given her hand in marriage to accused Sabir Ali.
- She denied the suggestion that she left her home of her own free will and married Sabir Ali because her father refused to consent to the marriage.
- She voluntarily stated that she was abducted by the accused.

- She denied the suggestion that she performed Nikah with Sabir Ali out of free will and executed a free-will affidavit.
- She voluntarily stated that her thumb impressions were obtained on documents by force.

She further testified that the accused kept her in a cattle pond for five days before taking her to the house of accused Naki Mughal.

- She denied the suggestion that she was recovered from the house of Naki Mughal, voluntarily stating that it was an abandoned place.
- She described the abandoned site as a single-room structure with a door, located at a distance of more than 10-12 kilometers from the house of Naki Mughal.
- She further stated that after her recovery, the police brought her back via the National Highway.
- She deposed that her correct age was 12 years.
- She denied the suggestion that she had not provided any proof of her age.
- She admitted that she was sent to Sukkur for an age determination test.
- She saw the ossification certificate issued by Ghulam Muhammad Mahar Medical College, Sukkur, which determined her age to be 19/20 years.
- She denied the suggestion that she had voluntarily solemnized her marriage with Sabir Ali but later, at the instance of her parents, retracted her statement and falsely accused the accused before the court.



16. The scribe of the FIR and **Investigating Officer, ASI Muhammad Hanif**, deposed that on 22-06-2020, the complainant appeared at the police station and, upon disclosing facts regarding a cognizable offence, he registered the FIR. Following the registration of the FIR, he visited the place of the incident but did not find any footprints at the scene. He then proceeded to record the statements of witnesses, namely Shabbir Ahmed and Mst. Naseema. On 26-06-2020, he arrested accused Muhammad Ali from Ubaruo bypass and prepared a mashirnama of arrest, which was signed by mashirs PC Mashooque Ahmed and PC Muhammad Ameen. On 28-08-2020, acting on the complainant's pointation, he conducted a raid on a house in a village near Qazi Wah, Khanzgarh, where he arrested accused Sabir Shah and also recovered the abductee, Mst. Irfana. Subsequently, the accused was placed in lockup, while Mst. Irfana was handed over to her father at the police station. He further deposed regarding the other procedural formalities undertaken during the investigation of the case.

During cross-examination by the defence counsel, the Investigating Officer:

- Denied the suggestion that during his investigation, he had received a Nikahnama and an affidavit of free will from Mst. Irfana.
- Deposed that there were only two houses in village Ghulam Qadir Bhatti.

- Further stated, *"What knows better whether Mst. Irfana solemnized marriage with accused Sabir, but in their record, she was an abductee."*

17. Mashir PC Mashooque Ali was also examined as a prosecution witness. He acted as mashir of the arrest of appellant Muhammad Ali and, in his deposition, testified regarding the arrest of Muhammad Ali on 26-06-2020. However, during his statement, he admitted the presence of private persons at the place of recovery of alledged abductee, Mst. Irfana and arrest of accused . The prosecution also examined PC Muhammad Ameen as PW-7, who deposed that he, along with ASI Muhammad Hanif Rind, obtained Call Data Record (CDR) reports of accused Sabir Ali and Muhammad Naqi from the SSP Office, Ghotki. He acted as mashir in this regard and produced the mashirnama as well as the CDR reports before the court.

18. **Mashir PC Mashooque Ali** was also examined as a prosecution witness. He acted as mashir for the arrest of appellant Muhammad Ali and, in his deposition, testified regarding the arrest of Muhammad Ali on 26-06-2020. However, he admitted that private persons were present at the place of arrest. The prosecution also examined **PC Muhammad Ameen as PW-7**, who deposed that he, along with ASI Muhammad Hanif Rind, obtained Call Data Record (CDR)

reports of accused Sabir Ali and Muhammad Naqi from the SSP Office, Ghotki. He further stated that he acted as mashir in this regard and produced the mashirnama along with the CDR reports before the court.

19.           It is an admitted fact that the alleged incident of abduction of one girl occurred on 15-06-2020, yet the FIR was lodged on 22-06-2020, resulting in an unexplained delay of seven days. No satisfactory explanation has been provided for this delay, raising serious concerns of afterthought, deliberation, and possible fabrication. Furthermore, there are material contradictions in the evidence of the prosecution witnesses, along with a lack of corroboration to substantiate the allegations against the appellants. A significant inconsistency arises from the prosecution's initial claim that Mst. Irfana was 12 years old, whereas the medical board determined her age to be 18-19 years. This discrepancy has a direct impact on the claim of kidnapping, as she was legally capable of consenting to marriage. This assertion is further validated by the production of a **Nikahnama**, proving that Mst. Irfana voluntarily married Sabir Ali on 16-06-2020 of her own **free will**. The fact of marriage is further reinforced by the press conference and newspaper publication, which support the contention that she left willingly and later returned to her parents' house. In these circumstances, once the alleged abductee had willingly entered into a marriage, the charge of

kidnapping with intent to compel marriage automatically collapses. Additionally, in the instant case, all the prosecution witnesses are closely related to each other, raising a strong likelihood of bias and false implication. The possibility that the complainant's family initiated this case due to dissatisfaction with Mst. Irfana's voluntary **marriage to appellant Sabir Ali cannot be ruled out.**

20. A crucial aspect of this case is that after the alleged kidnapping, Mst. Irfana did not approach the police or the court to seek help. Even after the registration of the FIR and her supposed recovery, she did not file any case against Sabir Ali Shah for wrongful detention, rape, or forced marriage. This strongly suggests to a prudent mind that she went willingly and was not forcibly taken as alleged. Furthermore, if a young girl were truly abducted from her house in the presence of her father, uncle, and mother, it would be expected that they would resist in order to protect her from abduction. The complete lack of resistance in this case raises serious doubts about the credibility of the prosecution's version. In our society, parents would go to any extent, even risking their lives, to prevent the abduction of their daughter. However, in the present case, not only was such an attempt missing, but the parents also remained silent for about seven days before the complainant finally lodged the FIR. This unexplained delay further weakens the prosecution's case and suggests deliberation and

afterthought, casting doubt on the truthfulness of the allegations.

21. It is an admitted fact that Ghulam Jaffar, the son of appellant Muhammad Ali, filed Criminal Miscellaneous Application No. 101 of 2020 before the Court of Sessions Judge, Ghotki, on 26-06-2020, seeking the recovery of his father. In his application, he stated that on 22-06-2020, at 2:00 p.m., the SHO of Police Station Reti, along with subordinate staff, arrested his father and unlawfully confined him at Police Station Reti without any complaint or FIR. However, the application was dismissed as not pressed on the ground that appellant Muhammad Ali was involved in the instant case. This application and its order were formally made part of the record by producing them alongside the statement of appellant Muhammad Ali. Notably, the prosecution did not challenge this application, despite its explicit claim that appellant Muhammad Ali had already been arrested on 22-06-2020. However, the official record of the police contradicts this, as his arrest was formally shown as occurring on 26-06-2020, coinciding with the date of filing the said application. This discrepancy in the arrest date raises serious concerns regarding the credibility of the prosecution's case, suggesting possible manipulation of police records to align with the prosecution's version of events.

22. It is important to note that the medical officer found no injuries or signs of coercion on the victim, which directly contradicts the prosecution's claims of forceful abduction. Additionally, the chemical report confirmed the absence of recent sexual intercourse, undermining the allegation that she was taken for illicit purposes. Even if such an allegation were to be considered, the victim is legally the wife of appellant Sabir Ali, as per the Nikahnama, and yet, the said marriage has not been dissolved. Furthermore, according to the defence version, the accused belonged to the same religious order (Dargah Noorpur Sharif) as the complainant. Although this claim was denied, it was alleged that the complainant had initially consented to the marriage of his daughter, Mst. Irfana, with appellant Sabir Ali but later retracted his consent due to personal differences. This sequence of events suggests a possible motive for falsely implicating the accused. Additionally, the complainant has not presented any substantial motive for the alleged abduction, apart from stating that the appellants came and stayed as guests, claiming to be travellers. However, even this aspect was contradicted by the prosecution witnesses:

- The complainant stated that the appellants had slept outside the house in an open place.
- PW Mst. Irfana stated that the guests sat outside the hedges.
- PW Shabbir Ahmed stated that the appellants were allowed to reside in the veranda of the house.

These contradictions in the testimonies raise serious doubts regarding the veracity of the prosecution's case. This unsubstantiated and inconsistent version of events prima facie suggests that the story has been fabricated, thereby leading to a reasonable doubt about the credibility of the allegations.

23. In light of the foregoing analysis, it is evident that the prosecution has failed to establish its case beyond a reasonable doubt. The unexplained delay of seven days in lodging the FIR casts serious suspicion over the veracity of the allegations, as held in the case of *Khial Muhammad v. The State (2024 SCMR 1490)*, where such delays were deemed indicative of deliberation and fabrication. Furthermore, the material contradictions between the evidence of witnesses and the medical evidence, particularly regarding the age of Mst. Irfana, weakened the credibility of the prosecution's case. This aligns with the principle set forth in *Muhammad Hassan and another v. The State and others (2024 SCMR 1427)*, which states that any single loophole in the prosecution's version must benefit the accused. Additionally, the absence of independent witnesses and the fact that all prosecution witnesses are closely related raise the possibility of false implication due to bias, as also observed in *Khial Muhammad's case [supra]*, where the Court held that unreliable testimonies cannot be converted into reliable evidence through mere corroboration. Moreover, the valid Nikahnama, the lack of evidence indicating coercion, the victim's silence post-recovery,

and the absence of complaints against the accused further undermine the prosecution's case. This is supported by the ruling in **Muhammad Imtiaz Baig and another v. The State through Prosecutor General, Punjab, Lahore, and another (2024 SCMR 1191)**, which emphasized that unsupported allegations cannot sustain a conviction.

24. Moreover, the medical evidence negates the claims of forceful abduction or sexual assault, aligning with the case of **Iftikhar Hussain alias Kharoo v. The State (2024 SCMR 1741)**, which held that medical evidence alone cannot identify the culprit when the prosecution's version is unreliable. The prosecution's failure to provide cogent evidence of wrongful detention or illicit motives renders the allegations speculative at best, further weakening the case against the accused.

25. It is a settled principle of law that the prosecution must prove its case beyond a reasonable doubt. However, as established in the case of **Magsood Alam and another v. The State and others (2024 SCMR 156)**, even a single doubt must be resolved in favor of the accused. Thus, in the presence of inconsistencies, contradictions, and unsubstantiated claims, the benefit of doubt must be extended to the appellants, entitling them to acquittal.

26. For the reasons discussed above, and in light of the serious doubts, inconsistencies, and lack of substantive evidence, the case



against the appellants fails to meet the legal threshold for conviction. Consequently, the instant appeal was **allowed**, and the impugned judgment dated 23-09-2023 is hereby set aside. As a result, appellants Muhammad Ali and Sabir Ali Shah were acquitted of the charge vide my short order dated 27.02.2025.

***These are the reasons for my short order dated 27-02-2025.***

***J U D G E***

\*Ahmed Memon/PS\*