

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Criminal Jail Appeal No.D-09 of 2025

Present:

Mr. Justice Amjad Ali Sahito,

Mr. Justice Muhammad Osman Ali Hadi

Appellants No.1, 2 & 4.	Wazeer Shah, Sardar Shah and Altaf Shah through Mian Taj Muhammad Keerio, advocate.
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Appellant No.3.	None present.
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The State	Through Mr. Nazar Muhammad Memon, Additional Prosecutor General.
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Date of hearing	12-06-2025
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Date of Judgment	26-06-2025
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J U D G M E N T

Muhammad Osman Ali Hadi, J. Through this Criminal Appeal, the Appellants have challenged the judgment dated 14.01.2025, passed by the learned Anti-Terrorism Court No. 1, Hyderabad, in ATC Case No. 66/2023 (**“the impugned judgement”**), arising out of Crime No. 65/2023 of Police Station Hala New, District Matiari, for offences punishable under Sections 365-A and 397 PPC, read with Sections 6/7 of the Anti-Terrorism Act, 1997, whereby they have been convicted and sentenced as under:

“The present accused Wazeer Shah, Sardar Shah, Ghulam Qadir and Altaf Shah are convicted U/S 265-H(ii) Cr.P.C and sentenced to imprisonment for life for the offence U/S 6(2)(e) of ATA, 1997 punishable U/s 7(1)(e) of ATA, 1997 R/W section 365-A, 149 PPC. 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. They are further convicted and sentenced to undergo R.l for 07 years each and to pay fine of Rs.50,000/- each for offence punishable U/s 397,149 PPC. In case of their failure to pay the fine they will suffer further imprisonment for 06 months. The sentences awarded to accused shall run concurrently. The accused are also extended benefit of section 382-B Cr.P.C.”

2. The succinct of the case, as set-forth in the FIR are that the complainant, namely Jameel Ahmed Lashari, runs an estate agency. He owns a white Toyota Yaris, model 2020, bearing Registration No. BSU-202, Engine No. 2A-06965, and Chassis No. NSP150R7003765 (**“the vehicle”**). For the purpose of exchanging / selling the said vehicle, the complainant posted an advertisement on his cell phone, stating that the vehicle was available for sale. In response, one person named Asad, remained in continuous contact with the complainant for a period of two days, requesting him to bring the vehicle to Hyderabad in order to sell / exchange the same. On 22-05-2023, the complainant, along with his son Ahsan Lashari and a friend named Ibrahim Rajput, travelled to Hyderabad in the said car for the aforementioned purpose. The complainant contacted Asad, who met them at an office located in the Latifabad area. They remained in the office for about two hours. However, as the vehicle that was to be exchanged with the complainant did not arrive, the complainant along with his son Ahsan and Ibrahim proceeded to return back home. While they were returning, on their way at around 02:00 a.m., the complainant’s party was travelling on the Hala-Shahdarpur Road near Village Shah Muhammad Dahri, they observed hedges placed on the road and two trucks parked nearby, causing them to stop the car. At that location, five unknown armed accused persons with uncovered faces, armed with rifles, a pistol, a hatchet, and one with a black knife, intercepted them. The accused persons encircled the complainant’s party and forcibly removed the complainant and his son from the front seat, making them sit in the rear seat. The accused then boarded the vehicle, with one of them taking control of the steering. The accused drove them to a banana orchard, where they tied the hands and feet of the complainant and Ibrahim Rajput. They robbed the complainant of a VIVO touch mobile phone and cash amounting to Rs. 30,000/-, and also took a mobile phone and Rs. 13,000/- from Ibrahim Rajput. Thereafter, the accused abandoned the complainant and Ibrahim Rajput at the banana orchard, and abducted Ahsan (the complainant’s son), in the vehicle and fled. The complainant and Ibrahim managed to untie themselves and started walking. After some time, they reached a nearby village and learnt that it was the village of Mehroom Bhambhro. There, they met some villagers who helped contact and inform the police about the ordeal. The police then arrived at the location and met with the complainant. The complainant and Ibrahim, accompanied by the

police and aided by a foot tracker, visited the place of the incident. Footprints were tracked to a concrete road, whereafter they disappeared (presumably due to the concrete). Subsequently, the complainant appeared at the police station and lodged an FIR against (at the time) unknown accused persons.

3. Initially, the investigation of the crime was conducted by SIP Tharo Khan, who inspected the place of the incident and recorded the statements of the witnesses under Section 161 Cr.P.C. He continued efforts to locate both the abductee and the accused persons. On 12.06.2023, the said SIP/I.O. received spy information that the abductee had been held captive in the Huri (hideout) of Mehar Ali Shah, located in Bhutto Forest. Upon receiving this information, the SIP/I.O. informed his senior officers and made an entry regarding his departure at P.S. Bhutto Forest. He then proceeded to the location. The SHOs of P.S. Sekhat, P.S. Bhit Shah, and P.S. Bhutto Forest, along with their staff, also set out to join the SIP/I.O. at around 1300 hours. Jointly, a raid was conducted at the Huri of Mehar Ali Shah and successfully recovered the abductee, Ahsan Lashari. During the raid, there were eight accused present. After some crossfire, five of the accused persons escaped, and the remaining three (being the instant accused persons/appellants Wazeer Shah, Sardar Shah, and Ghulam Qadir) were arrested on the spot, whereas accused Altaf Shah, Majid Shah (also known as Akhtar Shah), Ahsan Brohi, Sahib Dahri, and Haji Yousif Khan managed to escape from the scene. From the possession of the appellant Wazeer Shah, one SBBL gun was recovered. A 30-bore pistol was recovered from appellant Sardar Shah, and another 30-bore pistol was seized from appellant Ghulam Qadir. Empties and a rope were also recovered from the scene of the crime. A memo of arrest and recovery was prepared in the presence of Mashirs.

4. The police party then brought the abductee as well as the arrested accused to P.S. Bhutto Forest, where an FIR was lodged against the appellants under sections 324 and 353 PPC as well as in connection with the recovery of illicit weapons. Thereafter, they returned to P.S. Hala, and the recovered abductee was handed over to his legal heirs. The statement of the recovered abductee was recorded. Additionally, a further statement of the complainant was also recorded, in which he disclosed that on 29.05.2023, accused Ahsan Brohi had called him on his cell number

(0314-7174025) and demanded a ransom amount of Rs. 2 Crore for the release of his abducted son, i.e. Ahsan.

5. Subsequently, the investigation was transferred to Inspector Pir Mumtaz. The said I.O. interrogated the appellants/accused. On 22.06.2023, the statement of the abductee under Section 164 Cr.P.C. was recorded before the Civil Judge and Judicial Magistrate-II, Hala. The I.O. continued searching for the remaining accused, but to no avail. After completing the usual investigation, he submitted the charge sheet showing appellants Wazeer Shah, Sardar Shah, and Ghulam Qadir to be in custody, while accused Haji Yousif, Sahib, Ahsan Ali, Akhtar Shah @ Majid Shah, and Altaf Shah were shown as absconders under section 512 Cr.P.C.

6. Subsequently, appellant / accused Altaf Shah was arrested and produced through a supplementary charge sheet to face trial. After completing the required formalities, the absconding accused Haji Yousif, Sahib, Ahsan Ali, and Akhtar Shah @ Majid Shah were declared proclaimed offenders. The case proceeded against the four present appellants.

7. The essential documents from the prosecution file were supplied to the appellants, vide receipts exhibited as Ex.7 and 7-A.

8. In compliance with Section 16 of the Anti-Terrorism Act, 1997, the learned Trial Court took the prescribed oath (Ex.08).

9. The charge against the appellants was framed on 18.03.2024, at Ex.09, to which they pleaded "not guilty" and claimed trial, as per their pleas exhibited at Ex.10 to Ex.13, respectively.

10. In order to establish its case against the appellants/accused, the prosecution examined eight (08) witnesses, namely:

P.W.1: Jameel Ahmed (the Complainant) at Ex.14, who produced the FIR at Ex.14-A.

P.W.2: Ahsan (the abductee) at Ex.15.

P.W.3: ASI Sardar Ali Shah at Ex.16.

P.W.4: Inspector Tharo Khan (the first Investigating Officer) at Ex.17, who produced roznamcha entries, memos of the place of incident, memo of recovery of the abductee, and memo of arrest of the accused at Ex.17-A to Ex.17-G, respectively.

P.W.5: Muhammad Iqbal at Ex.18.

P.W.6: Inspector Pir Mumtaz Ahmed (Investigating Officer) at Ex.20, who produced the order of SP Matiari regarding the transfer of investigation to him; notices issued to the abductee for recording his statement under Section 164 Cr.P.C; the application addressed to the Civil Judge & Judicial Magistrate for recording the 164 Cr.P.C statement of the abductee; the Magistrate's order; and the 164 Cr.P.C statement itself at Ex.20-A to Ex.20-D, respectively.

P.W.7: ASI Syed Intizar Shah at Ex.22, who produced his departure roznamcha entry; memo of arrest of the accused; and jail certificate at Ex.22-A to Ex.22-C, respectively.

P.W.8: Shah Nawaz (Civil Judge & Judicial Magistrate) at Ex.23, who produced the 164 Cr.P.C statement of abductee Ahsan at Ex.23-A.

Thereafter, vide giving a statement (at Ex.24), the learned APG for the State closed the side of the prosecution.

11. In their statements recorded under Section 342 Cr.P.C at Ex.25 to Ex.28, respectively, the appellants denied the allegations levelled against them by the prosecution, and claimed innocence. They contended that no such encounter had taken place, that they had been falsely implicated at the instance of the police, and that they were arrested from their homes. They further stated that no incriminating articles were recovered from their possession and prayed for justice. None of the appellants/accused opted to step into the witness box to depose on oath in their defence, nor did they produce any witness in support of their version.

12. After hearing the arguments presented by learned counsel for the parties, the Trial Court rendered its judgment, convicting and sentencing the appellants as stated above. Aggrieved by the said impugned judgment, the appellants have exercised their right to challenge the decision through filing of the present appeal.

13. Learned counsel for the appellants/accused submitted that the impugned judgment is contrary to law. He stated that the appellants are innocent and have been implicated falsely by the complainant party in a kidnapping case due to dispute over transaction of money. He contended names of present appellants did not appear in the initial FIR for kidnapping, which was lodged by the complainant on 23.05.2023. But the counsel continued, the complainant has subsequently nominated the present appellants/accused in his further statement recorded by the police on 13.06.2023, which (as per counsel) shows *mala fide* on the part of complainant party. He stated there were many contradictions in the

evidence of the complainant, abductee and PW's, which creates a serious doubt in the case of the prosecution. He further contended that neither did any encounter take place, nor was the abductee recovered from possession of accused party. He submitted the police has falsely implicated the present appellants/accused. He alleged the police arrested the current appellants from their houses / village, and that no incriminating article was recovered from their possession. He further averred that the alleged encounter took place between the police and accused persons at a short distance, but no one from either side sustained any gunshot injury. He stated the prosecution / police version of arresting the present accused/appellants and securing weapons from their possession was not free from doubt, as no independent person was cited as a witness. He lastly concluded that the allegedly recovered weapons have been blamed upon the appellants in a bid to strengthen the prosecution's main case. He stated that in criminal law, it was incumbent upon the prosecution to prove their case against the appellants beyond a shadow of reasonable doubt, which he submits was not done. He has accordingly prayed for acquittal of the appellants/accused.

14. Conversely, the learned Additional Prosecutor General supported the impugned judgment and contended that the prosecution had successfully established its case against the appellants/accused, who have committed the offence. He continued that even though names of the present appellants/accused did not transpire in the initial FIR, but the complainant in his further statement recorded by the police has implicated the present appellants/accused with commission of the offence. He has further contended that the appellants/accused, along with other co-accused, abducted the son of the complainant by force, stole their car and demanded ransom of two crore rupees for his release, whilst confining the abductee at an unknown place in the jungle. He further averred that based on spy information, police reached at the spot and an encounter took place between the police and accused party. Thereafter the police succeeded to apprehend the present appellants, secured the abductee and grabbed unlicensed weapons from the accused's possession. He further contended that the complainant and PWs have fully supported the prosecution's case in their evidence, as recorded by the Trial Court. He submitted that such evidence implicated the appellants with carrying out the offence. The learned APG has lastly stated that no grounds for enmity or ill-will came on

the record to show that the appellants were falsely implicated by the police. Therefore, he concluded this appeal was liable to be dismissed.

15. We have heard the learned counsel for the appellants, as well as the learned Additional Prosecutor General and have examined the record of the case.

16. On analysis of the evidence brought on record, we found that the prosecution's case rests primarily upon the ocular account furnished by the prosecution through the evidence of Jameel Ahmed Lashari (PW-1), abductee Ahsan Jameel Lashari (PW-2), and the testimony of ASI Sardar Ali Shah (PW-3), SIP Tharo Khan (PW-4), Mashir Muhammad Iqbal (PW-5), Inspector Pir Mumtaz Ahmed (PW-6), ASI Syed Intizar Shah (PW-7), and Judicial Magistrate-II Hala, Shahnawaz (PW-8). The depositions of these witnesses have consistently supported the prosecution's version. The sequence of events was duly corroborated through site inspections, recovery memos, arrest memos, and statements recorded under section 164 Cr.P.C. The ocular account of events provided by the complainant and abductee was further supported by the timely registration of the FIR, recovery of the abductee after a police encounter, arrest of accused appellants from the scene, and recovery of weapons and the vehicle used in the offences and in possession of the accused.

17. The complainant Jameel Ahmed Lashari (PW-1) deposed that on 22.05.2023, he along with his son Ahsan Lashari and friend Ibrahim Rajput had gone to Hyderabad in his Toyota car (Reg. No. BSU-202) for a car exchange deal. As the deal for exchange of the car did not materialize, they were returning to Shahdadpur. At about 2:00 a.m. near Village Shah Muhammad Dahri on the Shahdadpur-Hala Road, they found the road blocked by bushes and parked trucks. Upon stopping due to the blockage, suddenly five armed persons with open faces appeared, overpowered them, and drove their car to a nearby banana orchard where the complainant and Ibrahim were tied up and robbed of cash and mobile phones. The culprits abducted his son Ahsan and took him away. After the complainant and Ibrahim managed to untie themselves, they went to the nearest village they found, and informed the villagers. Subsequently, the police was called and informed about the incident. An FIR was then registered accordingly (Exh.14-A). He further deposed that on 29.05.2023, he received a phone call from a person identifying himself as Ahsan Brohi,

demanding Rs. 2 crores ransom for the release of his son, which was later reduced to Rs. 70 lacs. On 12.06.2023, his son was recovered by the police after an encounter. In court he identified the appellants when they were produced. The complainant identified them to be the same culprits involved in the offence.

18. The abductee Ahsan Jameel Lashari (PW-2) fully supported the version narrated by his father, and added further details regarding his own captivity. He stated that after he was abducted, blindfolded and transported via car and motorcycle to various locations including through banana orchards and sugarcane fields. He was guarded by different sets of people, who identified each other by names such as Ahsan, Yousuf, Wazeer Shah, Sardar Shah, and Ghulam Qadir Magsi (the last three also being appellants herein). He remained in captivity for several days until he was rescued by the police, after a gunfire encounter. During captivity, the culprits took his photographs and mentioned that he would be released upon payment of his ransom. On 13.06.2023, his Statement under section 164 Cr.P.C was recorded before the Magistrate, where he identified the three accused/appellants.

19 Prosecution also examined a key witness being the Judicial Magistrate-II Hala, Mr. Shahnawaz (PW-8) who, on 22.06.2023, recorded the 164 Cr.P.C Statement of the abductee Ahsan Jameel. Notices were issued to the accused/appellants Wazeer Shah, Sardar Shah, and Ghulam Qadir Magsi as well as the prosecution. He confirmed, the abductee identified the accused/appellants in their presences, and acknowledged them as the same culprits who had kidnapped him for ransom. He appended the certificate and produced relevant documents (Exh.23-A, Exh.23-B). During his cross-examination, he denied any procedural irregularity or false deposition on his part

20. ASI Sardar Ali Shah (PW-3) deposed that on 23.05.2023, he was the duty officer at PS Hala New, when the complainant came and reported the incident of robbery and abduction. An FIR was registered under Sections 365 and 397 PPC against unknown persons. He confirmed the registration and signatures on the FIR (Exh.14-A).

21. SIP Tharo Khan (PW-4), the initial Investigating Officer ("**I.O.**"), deposed that he inspected the place of incident on 24.05.2023, upon the

information of the complainant. He stated he recovered cloth pieces used for tying up the victims. He further stated that on 12.06.2023, acting upon spy information, he led a raid at Mahar Shah ji Huri in Bhutto Forest with police teams from multiple police stations, from where the abductee Ahsan was recovered, after an exchange of fire. Three of the accused, namely, Wazeer Shah, Sardar Shah, and Ghulam Qadir Magsi, were arrested from the scene. Illicit weapons used in the offense were also recovered from their possession. He prepared the necessary memos in the presence of the police mashirs and the same was produced as Ehx. 17-B, along with other related relevant documents produced as Exh. 17-C. He submitted that later on, the complainant's car (Toyota Yaris) was also found, abandoned near Village Sher Muhammad Sangrasi, and was accordingly recovered.

22. Inspector Pir Mumtaz Ahmed (PW-6), who took over investigation on 14.06.2023, deposed that after receiving case papers, he obtained the remand of the appellants/accused. He issued notices to witnesses and facilitated recording of the 164 Cr.P.C statement of the abductee. He confirmed verification of the site memos and submission of interim and final challans. In his cross-examination, he denied conducting a biased investigation.

23. ASI Syed Intizar Shah (PW-7) deposed that on 21.10.2023, he was directed to formally arrest absconding accused/appellant Altaf Shah from District Prison Shaheed Benazirabad in connection with this case. He recorded Altaf Shah's 161 Cr.P.C statement and prepared the arrest memo (Exh.22-B). As the defense failed to cross-examine him, his testimony remained unchallenged.

24. On 12.06.2023, during the police encounter at Mahar Shah ji Huri, the police rescued abductee Ahsan Jameel Lashari and arrested three appellants/accused persons: Wazeer Shah, Sardar Shah, and Ghulam Qadir Magsi. From the accused Wazeer Shah One SBBL gun; from Sardar Shah One 30 bore pistol and from Ghulam Qadir Magsi One 30 bore pistol, (all being illicit weapons) were recovered.

25. From the place of incident several empties of fired bullets and the rope used to tie the abductee Ahsan to a tree were also secured by the police, and sealed on the spot in the presence of Mashirs. The appellants

and the secured property items were brought to the Police Station where cases under sections 324 & 353 PPC, as well as under the Arms Act, were registered against them. On the same date, the police whilst patrolling, recovered the Toyota Yaris car (Registration No. BSU-202) of the complainant Jameel Ahmed Lashari from the roadside near Village Sher Muhammad Sangrasi, which had been abandoned by the culprits after kidnapping Ahsan. All these recoveries were documented through proper memos, which were produced in evidence as: Exh.17-E (memo of recovery during encounter), Exh.17-F (memo of recovery of car), Exh.17-G (formal arrest memo), and supported by testimonies of the investigating officer SIP Tharo Khan (PW-4), the SHO Pir Mumtaz Ahmed (PW-6), and Mashirs Muhammad Iqbal (PW-5), and ASI Syed Intizar Shah (PW-7). The evidence of these officers remained firm.

26. All the relevant PW's identified the appellants in Court at the time of recording of their evidence. The defense was given ample opportunity and time to cross examine the prosecution witnesses, but the learned counsel for the appellants remained unable to shatter their evidence. The appellants/accused did not bring anything on record which would favour them or dispel the testimony of the prosecution witnesses. Furthermore, the appellants have failed to show any enmity/motive with the private or official witnesses which could establish a defense for their alleged false implication in the case.

27. Counsel for the appellants strongly contended that there were variations in the witness statements. We tend to disagree and the counsel was unable to show any major variation in the witness statements. There may have been some marginal disparity, but nothing that in our opinion would affect the virtues of the case. It is a settled principle that the variations in the statements of witnesses which are neither material nor serious enough to affect the case of the prosecution adversely, are to be ignored by the court. It is also a settled principle that witness statements have to be read holistically, and the Court should not read a sentence in isolation from the entire statement, which could ignore its proper reference. Any contradictions must be material and substantial so as to seriously and adversely affect the premise of the case of the prosecution. In this respect reliance can be placed upon case of **Ghulam**

Hussain Soomro v. The State¹ wherein the Honourable Supreme Court has observed as under:-

"Cases of kidnapping for ransom were to be dealt with iron hands and even if there were minor discrepancies and deviations in evidence or shortfalls on part of investigation agency, the Courts were always to be dynamic and pragmatic in approaching true facts of the case and drawing correct and rational inference and conclusions arising out of facts and circumstances of each case".

28. Learned counsel for the appellants contended that an eye-witness, namely Ibrahim Rajput (who accompanied the complainant and the abductee on that fateful night) did not record his statement under section 164 Cr. P.C., nor did he appear to give evidence. He further submitted that no identification parade was held, which is fatal to the conviction and as such the appeal ought to be allowed. We do not find this argument to hold much merit either. The accused / appellants were clearly identified by the abductee. The abductee had spent 21 days under abduction, and had given the police the specific names of two of the accused. The abductee's prolonged captivity would be sufficient to establish his accurate identification of the accused, particularly without the accused / appellant's providing any cogent reason to doubt the abductee's narration and identification, nor were they able to break the evidence given by the abductee. In the case of **Saindad v The State**² a learned Division Bench of this Hon'ble Court, whilst dismissing an appeal against conviction, held:

"23. Learned counsel pointed out to us some irregularities in the identification parade which in our view are not sufficient to discard other evidence which otherwise is more than sufficient to convict the appellants. In the present case, both the appellants were correctly identified by the witnesses during a test of identification and during the trial evidence of the witnesses also identified the appellants. The evidence of the Magistrate, who conducted the identification parade, was not shattered by the defence counsel which suggests that their evidence is reliable. It is now settled that even non-holding of identification test is no ground to discard the testimony of eye-witnesses and abductee, who remained in the custody of accused for a considerable period (which in this case was 10 days) and in such circumstances identification of accused in

¹ PLD 2007 SC 71

² 2021 YLR 1719

court at the time of evidence is sufficient. Further, identification parade is not a requirement of law but one of the methods to test the veracity of the evidence of an eye-witness who has had the opportunity to see the accused and claimed to identify him and is of corroboratory nature. When the witness has spent considerable time with the accused and had an opportunity to take a good look at him holding of identification test would not be necessary. Reliance is placed on the cases of Dr. Javed Akhtar v. The State (PLD 2017 SC 249), Muhammad Akbar v. The State (1998 SCMR 2538) and The State v. Haider Zaidi and 2 others (2001 SCMR 1919)."

29. In the case of **Himat Ali v The State**³ another learned Division Bench of this Hon'ble Court *inter alia* held:

"26. Non-holding of identification test is also no ground to discard testimony of eye-witness and abductee who remained in custody of accused for considerable period and in such circumstances identification of accused in court at the time of evidence is sufficient. Further, identification parade is not a requirement of law but only one of the methods to test the veracity of evidence of an eye-witness who has had an opportunity to see the accused and claimed to identify him. When witness has spent considerable time with accused and had an opportunity to take a good look at him, holding of identification test would not be necessary. Reliance can be placed on the case of Dr. Javed Akhtar V. The State (PLD 2017 SC 249), Muhammad Akbar v. The State (1998 SCMR 2538) and The State v. Haider Zaidi and 2 others (2001 SCMR 1919)."

30. Corroboration of the abductee's testimony was supported by Inspector Tharo Khan,⁴ who led the raid and arrest of the appellants, and captured them after a gun battle. He recovered the abductee, maintained the empties of fired bullets and other evidence. His testimony also remained unshaken. There appears no cavil that the appellants were clearly identified and caught red-handed, and have been unable to provide any serious defense to dispel the charges levelled against them.

31. In his written submissions, counsel for the appellants had relied upon the following case laws in support of his contentions: *Muht Nasir Butt v The State*⁵ which matter pertained to a murder case where there was no concrete evidence or eye-witness against the accused, and

³ 2021 P Cr. LJ 150

⁴ Evidence as Exh. 17

⁵ 2025 SCMR 662

the prosecution in that (murder) case was unable to show any motive (an essential consideration in the charge of murder); *Muhd. Asghar v The State*,⁶ again pertained to a murder charge, in which the accused was not known to the prosecution witnesses nor was there any evidence or identification of the accused, and hence there remained no proof of his involvement in that crime; in *Mehmood Ahmad v The State*,⁷ the matter yet again pertained to a murder charge, in which the accused was not attributed with any specific role. We find that none of the above cited case laws come to the aid of the Appellants or are relevant to the instant Appeal.

32. The appellants alleged there was a delay (of 17 hours) from the incident, in lodging the FIR, which as per counsel for the appellants is unexplained and therefore in this regard he submitted that a doubt was created. However, as the facts of the case *ipso facto* illustrate that the complainant and Ibrahim were tied up and left without any transport in a deserted orchard, it would take considerable time to get themselves untied and find a way to get back to a nearby or their own home / village. Therefore and to the contrary, it would be unbelievable had the FIR been lodged any earlier in the given circumstances. Even otherwise, there is a plethora of case law which provides even if there was a delay in lodging an FIR (which we have held there was not) the same cannot be made a ground for acquittal.⁸ Particular attention is also observed keeping in mind the gravity of the offence, which carries a maximum penalty of capital punishment.

33. The learned counsel for the appellants had contended since the appellants were acquitted in Crime Nos. 14, 15 & 16 of 2023 vide judgement dated 30.09.2023 by the Additional Sessions Judge - Hala, where they were charged under sections 324, 353, 147, 148 & 149 PPC, relating to the police encounter with the appellants, peripherally stemming from the same incident, and therefore they should also be acquitted in the instant case as it involves testimony of the same police officials and the appellants. We have gone through the said judgement⁹ and (without touching merits of those proceedings) find the said

⁶⁶ P 2008 SC 513

⁷ 1995 SCMR 127

⁸ PLD 2007 SC 71; 2014 YLR 2417

⁹ Which was provided to us along with a Statement dt. 19.06.2025 filed by the Appellants' Counsel

judgement to be in essence a non-speaking order, which has not in our opinion, appropriately discussed any of the evidence or merits, and therefore we cannot be persuaded by this argument of the counsel for the appellants either.

34. The abductee had spent significant time (21 days) confined by the accused, and hence his testimony as an eye-witness cannot be discredited. The complainant and relevant police officers have also held strong while providing evidence and during their cross examination. The accused have failed to put forth any believable defense. The arguments put forth by the learned counsel for the appellants do not carry any weight, as has already been discussed in this Judgement (*ibid.*).

35. The counsel for the appellants has only really pointed to minor discrepancies in the statements of the witnesses. This is not enough to demolish the case of prosecution. It is an accepted position with settled jurisprudence that minor discrepancies are common, for various factors such as on account of lapse of time right after an incident occurs. It is not a discrepancy or discrepancies which could be pressed for an acquittal, particularly keeping in mind the seriousness in the nature of the offense. But if the accused are relying upon discrepancies as a defense, they have to bring on record contradictions of such magnitude which should be able to cut the root of the prosecution's case. This was not done in the instant matter by the appellants. In the case of ***The State v Muhammad Arshad***,¹⁰ a three-member bench of the Apex Court held:

“6. We have noted that there is no material omission or contradiction in the depositions of the prosecution witnesses. [sic].... No contradictions on this material aspect of the case has been extracted from the prosecution witnesses. We may mention here that even where no proper investigation is conducted, but where the material that comes before the Court is sufficient to connect the accused with commission of crime, the accused can still be convicted, notwithstanding minor omissions that have no bearing on the outcome of the case. Thus, there exists

¹⁰ 2017 SCMR 283

ample evidence on record to find the respondent guilty and the Trial Court rightly convicted him.

36. The upshot of above discussion is that the prosecution successfully established its case against the appellants, namely, Wazeer Shah, Sardar Shah, Ghulam Qadir and Altaf Shah beyond any shadow of doubt. The evidence produced against the appellants was overwhelming. Learned counsel for the appellants has failed to point out any material illegality or serious infirmity committed by the learned Trial Court, while conducting the Trial and passing the impugned judgment, which in our view is based on a proper appreciation of evidence and does not call for any interference by this Court.

37. Thus, the conviction and sentence awarded to the appellants by the learned Trial Court is hereby **maintained** and the instant Appeal merits no consideration. This Criminal Jail Appeal is **dismissed** accordingly.

Judge

Judge

Irfan Ali