

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Appeal No. S-07 of 2025

Appellant : Khadim Hussain son of Abdul Sattar Lund,
Through Mr. Muhammad Ali Napar, Advocate

The State : Through Mr. Zulfiqar Ali Jatoi, Addl. P.G

Date of Hearing : 02.10.2025
Date of Judgment : 02.10.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.- The appellant, Khadim Hussain son of Abdul Sattar Lund, challenges the legality and propriety of the judgment dated 13th January 2025, delivered by the learned Additional Sessions Judge, Moro/Gender Based Violence Court, Naushahro Feroze. The impugned judgment convicts the appellant under Sections 376 read with 511 PPC, sentencing him to rigorous imprisonment for five years along with a fine of Rs.20,000/-, with a further six months' simple imprisonment in default of payment. Additionally, he was sentenced under Section 452 PPC to three years' imprisonment and a fine of Rs.20,000/-, with a similar default sentence, the sentences ordered to run concurrently, granting the benefit of section 382-B Cr.P.C.

2. Prior to hearing arguments, learned counsel for the appellant drew the court's attention to the testimony of the Investigating Officer, SIP Muhammad Ramzan Solangi (Exhibit 9). It is highlighted that on 07.09.2024, when the I.O.'s examination-in-chief was recorded, the defence counsel's partner appeared and requested time until 02:25 P.M, but thereafter defence counsel failed to appear for cross-examination. Consequently, the defence was denied the fundamental opportunity to cross-examine a key prosecution witness. Despite an application filed by learned defence counsel on the same day seeking leave to cross-examine, the request was declined.

3. Learned counsel for the appellant submits that the denial of this essential procedural right amounts to a miscarriage of justice, fundamentally undermining the fairness of the trial guaranteed under Article 10-A of the Constitution of Pakistan. Learned Additional Prosecutor General has, with candor, conceded this position.

4. Recognizing that the right to a fair trial, including the opportunity for cross-examination, is sacrosanct and inherent to the criminal justice process, this court is compelled to set aside the conviction and sentence imposed upon the appellant. The matter is remanded to the learned trial court with clear directions to facilitate the defence counsel's cross-examination of the Investigating Officer and to adjudicate the case strictly on its merits thereafter.

5. Furthermore, learned counsel for the appellant has informed this court that the appellant remained on bail throughout the trial. It is accordingly directed that the appellant may approach the learned trial court with a fresh bail application, which shall be considered and disposed of strictly on its own merits in accordance with law.

6. Accordingly, this criminal appeal is disposed of along with all listed application(s) if any.

J U D G E