

IN THE HIGH COURT OF SINDH AT KARACHI**Present:****Mr. Justice Omar Sial****Mr. Justice Miran Muhammad Shah****Special Criminal Anti Terrorism****Appeal No. 57 of 2024****[Ziauddin vs. The State]**

Appellant : through Mr. Habib Ahmed, Advocate.

Respondent : The State
through Mr. Muhammad Iqbal Awan,
Additional Prosecutor General.

Complainant : Taj Muhammad Afridi
through Malik Sadaqat Awan, Advocate.

Date of hearing : 06.11.2025

Date of Judgment: 02.12.2025

JUDGMENT

Omar Sial, J.: On 09.05.2008, Shaukat Afridi dropped off his brother, Taj Mohammad Afridi, at a friend's office and was heading to his own office in his car. Asif Nabi was driving the vehicle, and Shaukat's guard Dost Mohammad also accompanied them. A little while later, Asif Nabi called Taj Mohammad and told him that they had been intercepted on the way and that some armed men had abducted Shaukat. Taj Mohammad informed the police, and F.I.R. No. 152 of 2008 was registered under sections 365-A, 302, 324, 353, and 34 P.P.C., read with sections 7(a), (b), and (e) of the ATA 1997 at the Boat Basin police station. On 15.05.2008, a ransom call was made to Taj Mohammad after which negotiations started between the aggrieved family and the abductors. On 06.06.2008, a CD was sent to Taj Mohammad, which contained a film of his abducted brother pleading that the family pay the ransom. While the ransom amount was being negotiated, two men on a motorcycle threw a hand grenade inside Taj Mohammad's house, causing substantial damage but no loss of life. On 26.09.2008, the police informed Taj

Mohammad that an encounter had taken place between the police and the abductors and that the abductors had exploded a bomb inside the house where Shaukat was kept. Three men suspected to be the abductors and Shaukat had unfortunately died in the episode. The police also told him that they had managed to arrest one of the abductors at the spot. The arrested person was Raheemullah.

2. Ziauddin, the appellant in this appeal, was arrested in a different crime and was in police custody on 02.04.2010, when, during interrogation, he confessed that he was one of the six abductors.

3. On 14.04.2010, Asif Nabi identified Ziauddin as one of the abductors in an identification parade. Ziauddin told the magistrate conducting the parade that he had been shown to Asif Nabi three to four days before the identification parade. The identification parade was riddled with irregularities. The Magistrate Adam Ishaque Sanghar admitted that in the F.I.R. the age of the culprits was stated to be thirty to thirty-five years (this is what Adam Nabi had initially told the police, he however admitted that he had written no ages of the dummies in his memo. The appellant at that time was nineteen years old). The Magistrate acknowledged that he had not written the date, time, or place of the incident in the memo he prepared. He admitted that he had not included the list of dummies, their descriptions, or their national identity card numbers in the memo he prepared. The identification parade was held nearly two years after the incident and raises the question whether Asif Nabi's identification could actually be relied upon in view of the fact that the abduction was quick and without a shadow of doubt traumatic. It is also pertinent to reiterate that Asif Nabi had told the police that the abductors were in their thirties, whereas Ziauddin was nineteen at that time. The identification parade had no evidentiary value also because no description of the abductors was given by Asif to the police after the incident had occurred. It is pertinent to mention that Asif Nabi had also earlier identified Raheemullah (the person who was arrested at the spot) as one of the abductors.

4. The learned Anti-Terrorism Court No. II in Sukkur on 31.03.2022 acquitted Ziauddin of the murder of Shaukat Afridi and causing harm to police officials; however, it convicted him for an offence under section 365-A P.P.C. along with section 7(e) of the ATA 1997 and a fine of Rs. 1,000,000. Forfeiture of his property was also ordered.

5. The evidence against Ziauddin primarily came from Asif Nabi's identification. We have already observed that a conviction cannot be based on it. It is also important to note that we have not rendered a long, drawn-out judgment, as the Supreme Court acquitted Raheemullah on 16.10.2025. Raheemullah was the person arrested from the spot and had been tried for terrorism and possession of explosives, in addition to abduction and murder of Shaukat Afridi. He, too, had been identified by Asif Nabi. The Supreme Court also held that the identification parade could not be relied upon due to irregularities in its conduct. Our observations are similar to those made by the apex court. In addition, the Supreme Court thoroughly evaluated the other evidence presented and concluded that the prosecution's case was doubtful. Ziauddin's case is on a better footing. He was in custody in another crime when it is alleged that he confessed to Shaukat's abduction. The identification parade was held nearly two years later. If the identification he made soon after the incident could not be relied upon, one made after years becomes even more doubtful. We cannot hold an opinion different from that of the Supreme Court based on the same set of facts and evidence.

6. Given the above, we are of the opinion that the prosecution failed to prove its case against the appellant beyond a reasonable doubt. The benefit of the doubt should have gone to the appellant. He is therefore acquitted and may be released, unless required in any other custody case.

JUDGE

JUDGE