

# IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

**Mr. Justice Muhammad Iqbal Kalhoro**

**Mr. Justice Syed Fiaz ul Hassan Shah**

Criminal Appeal No.144 of 2025

*Muneer Ahmed S/o Muhammad Aslam*

*Versus*

*The State & another (Abid Hussain S/o Faiz Muhammad Balouch)*

APPELLANT : Muneer Ahmed S/o Muhammad Aslam  
(in person)

RESPONDENT / : The State  
THE STATE Through Mr. Mumtaz Ali Shah,  
Deputy Prosecutor General, Sindh.

Date of Hearing : 17.03.2026

Date of Decision : 17.03.2026

## J U D G M E N T

***Syed Fiaz ul Hasan Shah, J*** :-- Through the instant Criminal Appeal, the Appellant has challenged the Judgment dated 31.01.2025 (“**impugned Judgment**”) passed by the learned IIIrd Additional Sessions Judge, Karachi South, (“**Trial Court**”) in Sessions Case No.2503 of 2023 emanating from Crime No.137/2023 for the offence under sections 377, 511 Pakistan Penal Code, 1860 (**PPC**) registered with Police Station Chakiwara, Karachi South, wherein the appellant was convicted by committing the offence under section 375 PPC and sentenced him to suffer Rigorous Imprisonment (“**R.I**”) for ten (10) years and to pay fine of Rs.100,000/- out of which, after its recovery 50% fine amount was ordered to be paid to the victim as envisaged

under section 17 of Anti-Rape (Investigation and Trial) Act, 2021 and in case of default, he would further undergo Simple Imprisonment (SI) for six (06) months. However, the appellant was extended benefit of section 382(b), Cr.P.C.

2. The facts of the prosecution case are that the complainant Abid Hussain was lodged an FIR No.137/2023 stating therein that on 16.08.2023 in between 1920 to 1930 hours, the Appellant took the victim Hamdan son of Ahmed Umer aged about 10 years, inside the house situated on Ist Floor, Sarbazi Mohallah, Gali No.3 opposite Sarbazi Masjid, Chawkiwara, Lyari Karchi and had committed sodomy with the said victim Hamdan.

3. After usual investigation, copies were supplied to the appellant in terms of section 265-C, Cr.P.C. vide Exh.1 and the charge was framed against him vide Exh.2, to which he pleaded not guilty and claimed to be tried vide plea at Exh.2/A.

4. The prosecution had examined nine (09) witnesses to prove the case who had produced documents and record at Exh.3/A to Exh.11/O respectively. Thereafter, the prosecution closed its side vide Statement at Exh.12. The statement of the appellant was recorded under section 342, Cr.P.C. at Exh.13, however, he neither examined himself on oath under section 340(2), Cr.P.C. nor led any evidence in his defence. Consequently, the learned Trial Court after hearing both the parties passed the judgment, which has impugned herein before us.

5. Heard the appellant in person and learned Deputy Prosecutor General, Sindh and with their assistance minutely perused the record of the case.

6. We have noted that initially the FIR was lodged by the complainant against the appellant stating therein that the accused was committed sodomy with the victim Hamdan. However, in the Statement of victim Hamdan recorded under section 164, Cr.P.C. before Judicial Magistrate which was produced by PW-8 Mazhar Ali, Judicial Magistrate-V, Karachi South (Exh.3/A) victim stated that an attempt was made for committing sodomy with him. During evidence, the victim deposed before the Court that he was sodomized which created an un-clarity that as to whether the appellant was actually sodomized by the Appellant inside the private parts of the victim by considering contents of FIR or his disposition or considered it attempt of sodomy by appreciating his Statement at Exh.3/A. This unclarity—not a contradiction has gauged by us in the light of medical evidence. The PW-7 Dr. Faraz Shahid deposed that ***“upon penetration was not seen and only stool was seen. As per examination, findings are negative for penetration on the basis of clinical examination. The child has not been subjected to sodomy and case was reserved for chemical analysis. DHA report and surgical opinion. I issued MLC bearing No.4553/2023, which I produce at Exh.9/B, which is same, correct and bears my signature”***. Similarly, in his initial report at Exh.9/B he stated that private part of victim had no mark of violence and no physical abnormality was seen and upon penetration blood was not observed so also painful figure penetration. This portion of medical

evidence confirmed that it was the attempt. In the same breath, PW-4 also produced his report dated 27.10.2023 analyzing DNA report at Exh.9/E and opined that Appellant cannot be excluded as possible contributors to this mixed DNA sample obtained from epithelial fraction of sample. However, during his evidence he did not give reason of his report nor confirmed such facts about and even nor cross-examined by the defence side. Therefore, the allegations that the victim was sodomized by the Appellant was the fact which stand neither proved nor disproved. However, the allegations that the Appellant took the victim inside the room of a roof (crime scene) and attempted to sodomize, as initially disclosed by the victim in his statement at Exh.3/A produced by the PW-8 Mazhar Ali, learned Judicial Magistrate, stand fully proved from the oral testimony and corroborated from the medical evidence and record beyond any reasonable doubt.

7. Therefore, we dismiss the present appeal and maintained the impugned Judgment with modification that the appellant is guilty for the commission of attempt to sodomy with the victim Hamdan son of Ahmed Umer. According to the Sentencing provisions lesser punishment for the attempt or actual sodomy is not less than two (02) years and as per the jail roll submitted by the Senior Superintendent, Central Prison and Correctional Facility Karachi vide letter No.JB/10659/60 dated 16.03.2026, the Appellant has been served four years, five months and twenty-six days and sufficiently been punished and a chance must be given him to improve himself. Therefore, we reduced the Sentence of imprisonment of the appellant for the period

which he has already been undergone while setting aside the Sentence of fine amount of **Rs.100,000/-**.

8. This Criminal Appeal is dismissed with above modifications. The appellant shall be released forthwith if otherwise he is not required in any other case to the satisfaction of Jail Authorities.

**J U D G E**

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