

JUDGMENT

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

Criminal Appeal No.56/2017

(Waseem Haroon and two others vs. The State, etc.)

Appellants by: Mr. Sher Afzal Khan, Advocate

State by: Mr. Yasir Barkat Ch., State Counsel
Muhammad Khan, SI, PS Sabzi Mandi.

Date of Hearing: 23.05.2017

MOHSIN AKHTAR KAYANI, J:- The appellants through the instant criminal appeal, have assailed the judgment dated 06.04.2017 whereby appellants, in case FIR No.296/2011 dated 23.06.2011, U/S 395/412 PPC, Sec.17 Harabah Offences against Property (Enforcement of Hudood) Ordinance, 1979, P.S. Sabzi Mandi, Islamabad, have been convicted and sentenced U/S 395 PPC to seven (07) years rigorous imprisonment and fined Rs.15,000/- each, whereas the appellants have also been convicted and sentenced U/S 412 PPC to three (03) years rigorous imprisonment and fined Rs.15,000/- each. Benefit of Section 382(b) Cr.P.C. has been extended to the appellants and the sentences awarded to the appellants shall run concurrently.

2. Brief facts of the instant appeal are that, PW-8 Mudassar Munir, Branch Manager lodged the ibid FIR regarding the incident of robbery in the Bank Alfalah, Sabzi Mandi Branch, Islamabad, whereby three armed gunmen robbed Rs.3,820,000/- from the cash counter and fled away on Mehran car and motorcycle, parked outside the bank.

3. After registration and investigation of the criminal case, the police arrested the appellants and submitted report U/S 173 Cr.P.C. before the learned Trial Court, whereupon the appellants were convicted in the abovementioned case. Hence, instant criminal appeal.

4. Learned counsel for the appellants contended that, neither any witness has deposed against the appellants nor even any witness identified them, therefore, the conviction is not sustainable in the eyes of law; that the learned Trial Court based the conviction of appellants on account of inadmissible evidence, rather convicted them on the basis of their statements got recorded before the police, which is unacceptable in the eyes of law; that the judgment is based on conjectures resulting into miscarriage of justice; that neither charge U/S 395/412 PPC was ever framed against the appellants nor the charge was ever amended; that there are material contradictions in the statements of PWs on the point of alleged recoveries and the same have not been proved in accordance with law.

5. Conversely, learned State Counsel has opposed the instant criminal appeal on the ground that, the prosecution has successfully proved the case in accordance with law, fully established the recoveries and identification of the appellants, even recovery of amount of Rs.400,000/- proves the case against the appellants.

6. Arguments heard, record perused.

7. From the perusal of record it has been observed that case FIR No.296/2011 dated 23.06.2011, U/S 395/412 PPC r/w Sec.17 Harabah Offences against Property (Enforcement of Hudood) Ordinance, 1979, P.S. Sabzi Mandi, Islamabad was registered on the complaint (Exh.PF) of PW-8 Ch. Mudassar Munir, Branch Manager Bank Alfalah. The contents of the same are reproduced as under:

"گزارش ہیکہ میں چوہدری مدثر منیر برانچ منیجر بینک الفلاح سبزی منڈی اسلام آباد کا ہوں امروز بوقت قریب 2:15 بجے دن بینک میں موجود تھا کہ اسی دوران ایک شخص بینک کے اندر آکر صوفہ پر بیٹھ گیا اسکے بعد انکے دو اور ساتھی بھی بینک کے اندر آگئے اسی اثناء میں تین اور اشخاص جن میں سے دو کے ہاتھ میں پستل تیس بور سے مسلح تھے گن من کو قابو کر کے اندر لے آئے اور گن میں کاریو الور بھی چھین لیا اور اندر آئے ہوئے سحر کس ملزمان نے اندر والے گن مین سے گن چھین لی اور میرے سمیت بینک کے تمام عملہ کو بینک کے اندر موجود کسٹمر کو پر غمال بنالیا

اور ایک سائیڈ پر کھڑا کر دیا اور کیش کاؤنٹر سے نقدی جو بعد میں چیک کرنے پر مبلغ 3820000 روپے معلوم ہوئے ہیں ملزمان نے تھیلے میں ڈال کر اٹھائی اور بینک سے باہر کھڑی ہوئی گاڑی مہران اور موٹر سائیکل پر سوار ہو کر فرار ہو گئے ہیں۔ جاتے ہوئے ملزمان نے بینک کا مین گیٹ باہر سے لاک کر دیا جنکے حلیہ جات ذیل ہیں۔ (1) جو شخص سب سے پہلے بینک میں داخل ہوا اسکی عمر 28/30 سال جبکہ دو کی عمریں 35/38 سال جبکہ باقی تین کی عمریں 28/30 سال کے لگ بھگ ہو گئی جنکو سامنے آنے پر شناخت کر سکتے ہیں جو شکل و شبہات سے پٹھان معلوم ہوتے تھے آپس میں پشتو اور ہمارے ساتھ اردو میں بات کرتے رہے ہیں۔"

8. After the registration of the criminal case, PW-3 Abdul Razaq/SI investigated the matter, and took into possession CCTV footage, 12 bore repeater gun, an iron rod, two cloth bags and cycle lock along with the finger prints from spot and recorded statements of witnesses U/S 161 Cr.P.C., where after the investigation was transferred to PW-12 Asjad Mehmood/SI, who took over the vehicle LOD-2783 during the course of investigation, which was involved in another criminal case FIR No.305/2011, registered U/S 4/5 Explosive Substances Act, 1908 and arrested Waseem Haroon/appellant who was already in judicial lockup in case FIR No.25/2012, U/S 399/402 PPC, P.S. Sabzi Mandi, Islamabad, whereupon he disclosed that other co-accused are involved in the said case, where after all the accused were arrested on his pointation, and an amount of Rs.350,000 was recovered on different occasions. Later on, arrested accused were sent to judicial lockup for the purposes of identification parade. The witnesses identified the appellants on 31.01.2012 in presence of Hussain Bahadaur/Magistrate, where after physical remand of accused persons was obtained from the concerned Court and finally, Investigation Officer submitted his report U/S 173 Cr.P.C. Similarly, Attiq-ur-Rehman/appellant, who was already under custody in another case, disclosed his involvement in the instant case, where after he was also sent to judicial lockup for identification parade and he was identified by the

witnesses and separate *Challan* was also submitted against the said appellant.

9. The prosecution produced 11 witnesses in order to prove the charge of dacoity against the appellants, whereby the charge U/S 17 of Offences against Property (Enforcement of Hudood) Ordinance, 1979, has been framed on 28.11.2012 by the Court of Raja Khurram Ali Khan, ASJ-IV (West) Islamabad, against Raza Khan and Waseem Haroon/appellants, to which they pleaded not guilty.

10. The case was subsequently transferred to the Court of Ms. Rakhshanda Shaheen, ASJ (West) Islamabad, who after hearing the defence side and the State, passed order dated 03.10.2013, whereby Sec.17 of Offences against Property (Enforcement of Hudood) Ordinance, 1979 was deleted and matter was sent back to the Court of concerned Judicial Magistrate Sec.30 (West) Islamabad.

11. I have gone through the entire record but could not find any order through which a specific charge U/S 395/412 PPC was framed, although the case was being transferred from one Court to another but the learned Trial Court who finally passed the judgment of conviction, has not considered this aspect that no charge was framed, even I could not find any such order in the entire record.

12. From the perusal of record, it has been observed that the only available charge is of Sec.17 of Offences against Property (Enforcement of Hudood) Ordinance, 1979 against the appellants Waseem Haroon and Raza Khan, whereas no specific or separate charge was ever framed against Attiq-ur-Rehman/accused, however the purpose of framing charge is to state the offences with which the accused has been charged, by way of mentioning the specific name of offence and sufficient description along with the Section of PPC, for the purposes of clarity and in order to achieve

the very object of the prosecution as the said statement of charge must hold every legal condition required by the law to constitute the offence charged along with the full particulars as required in Sec.221 Cr.P.C. Even, it was the duty of the Court to reframe the charge when order dated 03.10.2013 was passed by Ms. Rakhshanda Shaheen ASJ (West), Islamabad whereby Sec.17 of Offences against Property (Enforcement of Hudood) Ordinance, 1979 was deleted. It was also incumbent on the transferee Court to go through the entire record before proceedings further, as if charge has not been framed properly or the same is defective, it will cause prejudice to the accused.

13. Most astonishing factor, which is *prima facie* appearing from record is that the entire proceedings do not disclose constitution of any offence in terms of Sec.395/412 PPC and separate charge has not been framed for every distinct offence allegedly committed by the accused. In order to take proper description of the charge, I am fortified with the view given in **PLD 2017 Pesh 55 (Akhtar Muhammad vs. The State)** wherein it is held that:

“11. It is well settled principle of law that charge against accused shall be specific, fair and clear in all respects to provide an opportunity to the accused to defend himself/herself in due course of trial. The charge shall be clear and by no means, confused to prejudice the accused. Charge is a precise formulation of specific accusations made against an accused person, who is entitled to know its nature at the early stage. Its aim is to explain to the accused as correctly and precisely as well as concisely as possible the allegations with which the accused is to be confronted. The charge must convey to the accused with sufficient transparency and in clear terms what the prosecution intends to prove against the accused. It shall contain all essential details as to time, place as well as specific manner of the alleged offence, the manner in which the offence was committed with full description of the accusation so as to afford the accused an opportunity to explain the accusations with which he is confronted. The prime object and the principle of framing charge shall be, to make aware the accused, of the substantive accusations which are to be proved by the prosecution with clear intention and with unambiguous description of the offence so as to enable the accused to defend himself.”

14. The prosecution produced complainant Mudassar Munir/Branch Manager, as the star witness, who recorded his statement as PW-8, whereby he narrated the entire incident of armed robbery occurred on 23.06.2011 at 2:15 pm, and stated that 3/4 armed persons entered into Bank, whereas one person was holding an iron rod in his hand, through which he started beating people in the bank, whereas three of the them robbed the bank cash and finally locked the bank door from outside through a cycle lock. After the said incident and calculation, it revealed that appellants had robbed Rs.3,820,000. PW-8 further described the details of all the accused and handed over CCTV footage to the police and on his complaint Exh.PF, FIR No.296/2011 dated 23.06.2011, U/S 395/412 PPC, r/w Sec.17 of Offences against Property (Enforcement of Hudood) Ordinance, 1979, P.S. Sabzi Mandi, Islamabad was got lodged. However, PW-8 also joined the identification parade, however he has not identified any of the accused in the jail or in the Court.

15. During the course of cross-examination, PW-8 admitted before the Court that, he has not noted the registration number of the vehicle or motorcycle, on which the accused fled away. However, the said witness has explicitly admitted in his statement that:-

"بعد ازاں ملزمان کے گرفتار ہونے پر اڈیالہ جیل میں شناخت پریڈ مرتب ہوئی جس پہ میں نے کسی ملزم کو شناخت نہیں کیا تھا۔ جبکہ دیگر سٹاف ممبر نے شناخت کیے تھے۔ نہ ہی ان اشخاص میں سے عدالت میں کوئی موجود ہے۔"

16. The prosecution has produced PW-10 Muhammad Asim Ibrar, Account Officer of Bank Alfalah, Sabzi Mandi Branch, who narrated the incident in his statement that, on 23.06.2011 at Zuhr time, approximately between 02:00 to 2:30 pm, when he was present on his seat, three persons appeared on counter, while two of them had pistols in their hand and thereafter, three more persons entered into the bank, who disarmed the bank security guards and hands upped the bank staff as well as customers.

He further stated that they were making conversation in Pashto and they robbed away Rs.3,820,000/- from the counter and stated that the entire incident took place in one or one and half minute. PW-10 Further stated in his statement that, he had not seen the accused due to his seating angle in the bank, though accused had not muffled their faces. However, during the course of cross-examination, the only statement came on record from PW-10 is as under:-

"ملزمان حاضرہ عدالت میں شناخت نہ کر سکتا ہوں۔ ان کی شکلیں مشابہت وغیرہ ان ملزمان سے نہ ملتیں ہیں۔
از خود کہا کہ کافی عرصہ گزر گیا ہے۔"

17. The prosecution has produced PW-11 Muhammad Wasif, who was working in the bank as Internee, stated before the Court that, on 23.06.2011 at about 2 to 2:15 pm, when he was on a lunch break, all of sudden he heard of outcry and commotion, whereupon he came out from his room, consequently he was put in line along with other bank staff who were hands upped behind a Photostat machine. PW-11 has not stated in his examination-in-chief that he had seen the accused rather he stated that, the entire episode had completed within 1 and half or 2 minutes, where after police came to the spot and collected the evidences as well as fingerprints and got signed the same from the entire staff of the bank. He further stated that, one of them had muffled his face and therefore his face was not visible, even he did not know the total number of the dacoits. During the course of cross-examination, he only stated the following words:-

"میں کسی بھی ملزم کی شناخت نہ کر سکتا ہوں۔ ایک شخص نے رومال سے منہ ڈھانپا ہوا تھا۔ جس شخص نے منہ رومال سے
ڈھانپا تھا میں نے اس کی آنکھیں بھی نہ دیکھی ہیں۔"

18. The prosecution has produced PW-9 Hussain Bahadur/Magistrate, who had supervised the identification parade carried out in Adyala Jail, Rawalpindi. PW-9 stated that total three witnesses were asked to join the identification parade, whereas two witnesses identified two accused only

while the remaining one had not identified any of the accused. In this respect, PW-9 produced the complete identification parade report as Exh.PP dated 20.01.2012. However, during the course of cross-examination, he admitted the following facts:-

"یہ درست ہے کہ اصل شناخت پریڈ کی رپورٹ مثل پر دستیاب نہ ہے اور نقل رپورٹ Exh.PT کی گئی ہے یہ میری قلمی ہے۔۔۔۔۔۔ پہلے ملزمان کو بلایا گیا اور میرا تعارف کرایا گیا اسکے بعد گواہان کو بلایا گیا۔۔۔۔۔۔ اس طرح مجھے یہ بھی یاد نہ ہے دوسرے اور تیسرے نمبر پر کس گواہ نے حصہ لیا۔۔۔۔۔۔ یہ درست ہے کہ میں نے اپنی رپورٹ میں ڈمیز کی شبیہ کا ذکر نہ کیا ہے۔۔۔۔۔۔ مجھے یاد نہ ہے کہ پہلے گواہ کی شناخت پریڈ کے وقت ملزم رضا خان کو کس قطار میں بیٹھایا تھا۔ مجھے یہ بھی یاد نہ ہے کہ جملہ تین ملزمان میں سے کوئی ملزم کس قطار میں تھا۔ مجھے یہ بھی یاد نہ ہے کہ پہلے گواہ شناخت پریڈ کے دوران کونسا ملزم کس قطار کے کس نمبر پر بیٹھا تھا۔۔۔۔۔۔ ملزمان اور ڈمیز کا تعارف مجھے شناخت پریڈ سے قبل کرایا گیا۔۔۔۔۔۔ دو ملزمان شناخت کے لیے میرے سامنے لائے گئے تھے ملزم عتیق الرحمان کو میرے سامنے نہیں لایا گیا تھا۔"

19. From the statements of above referred four witnesses i.e. PW-8 Mudassar Munir/Branch Manager/complainant, PW-10 Muhammad Asim Ibrar/Account Officer, PW-11 Muhammad Wasif/Internee and PW-9 Hussain Bahadur/Magistrate, who have given entire details regarding identification parade, it has been observed that, the three persons, who are eyewitness of the entire incident of armed dacoity, have not identified the accused/appellants before the Court, rather they have denied the identification of the accused. It has further been observed from the record that, PW-9 Hussain Bahadur/Magistrate has not observed the principles of identification parade as referred in the Police Rules, 1934 which are as follow:

"26.32. Identification of suspects: (1) The following rules shall be strictly observed in confronting arrested suspects with witnesses, who claim to be able to identify them.

- a) The proceedings shall be conducted in the presence of a magistrate or gazetted police officer, or, if the case is of great urgency and no such officer is available, in the presence of two or more respectable witnesses not interested in the case, who should be asked to satisfy themselves that the identification has been conducted under conditions precluding collusion.

- b) *Arrangement shall be made, whether the proceeding are being held inside a jail or elsewhere, to ensure that the identifying witnesses shall be kept separate from each other and at such a distance from the place of identification as shall render it impossible for them to see the suspects or any of the persons concerned in the proceedings, until they are called up to make their identification.*
 - c) *Identification shall be carried out as soon as possible after the arrest of the suspects.*
 - d) *The suspects shall be placed among other persons similarly dressed and of the same religion and social status, in the proportion of 8 or 9 such persons to one suspect. Each witness shall then be brought up separately to attempt his identification. Care shall be taken that the remaining witnesses are still kept out of sight and hearing and that no opportunity is permitted for communications to pass between witnesses who have been called up, and those who have not. If it is desired, through fear of revenge or for other adequate reasons, that witnesses shall not be seen by the suspects, arrangements shall be made for the former, when called up to stand behind a screen or be otherwise placed so that they can see clearly without being seen.*
 - e) *The results of the test shall be recorded by the senior police officer present in Form 26.32 (1) (e) as each witness views the suspect. On conclusion, the magistrate, or other independent witness or witnesses, shall be requested to sign the form and certify that the test has been carried out correctly and that no collusion between the police and witnesses or among the witnesses themselves was possible. It is advisable that, whenever possible, an independent and reliable person unconnected with the police should be present throughout the proceedings at the place where the witnesses are kept, and should be required to devote attention entirely to the prevention of collusion. It is important that, once the arrangement for the proceedings have been undertaken, the officer investigating the case and any police officer assisting him in that investigation should have no access whatever either to the suspects or to the suspects or to the witnesses. Formal identification proceedings should not, if it can be avoided, be arranged without the orders of an officer of or above the rank of inspector, and such officer should always be present and arrange the conduct of the proceedings himself if possible. The value of tests arranged by the investigating officer or his subordinates is inevitably liable to be called in question by the defence.*
- (2) *Proceedings of the nature described above are extra-judicial. It is not the duty of the officer conducting them or of the independent*

witnesses to record statements or cross examine either suspects or identifying witnesses, but they should be requested to question the latter as to the circumstances in which they saw the suspect whom they claim to identify, and to record the answer in column 4 of the form. While every precaution shall be taken to prevent collusion, the identifying witnesses must be given a fair chance, and conditions must not be imposed, which would make it impossible for a person honestly capable of making an identification to do so. In this connection attention is invited to paragraph 814 of the Punjab Jail Manual, which strictly prohibits the alteration in any way of the personal appearance of unconvicted prisoners, so as to make it difficult to recognize them."

20. I have gone through the cross-examination of PW-9, who in his statement has not confirmed the original report Exh.PP rather he stated before the Court that, the original report is not available on record and the copy has been referred as Exh.PT. At this stage, I have perused the entire record with the able assistance of learned counsels for the appellants and State, and observed:

- i. That, the record contains photocopies of two identification parade reports dated 22.03.2013 and 20.01.2012, subsequently attested by the Magistrate 1st Class Islamabad, without referring to any name of the authority who attested the same.
- ii. That, Attiq-ur-Rehman/accused stated that, his photographs have been taken on his arrest and he met different people in the police station.
- iii. That, witness Irfan Maqbool s/o Muhammad Maqbol has identified Attiq-ur-Rehman.
- iv. That, signature and thumb mark of witness Irfan Maqbool has not been identified in the said report.
- v. That, the second report dated 20.01.2012 is also a photocopy and has not been exhibited by the Court during the evidence.
- vi. That, accused objected before the Magistrate that their photographs have been taken and different people have seen them in the police station.

vii. That, witness Irfan Maqbol s/o Maqbol Rehman identified Waseem Haroon and Raza Khan.

viii. That, witness Syed Hassan Irfan s/o Syed Ijaz Hassan, cashier of the bank, has identified Waseem Haroon and Raza Khan.

ix. That, witness Mudassar Munir/Branch Manager has not identified any of the accused in the identification parade.

21. The evidentiary value of the documents referred above, has to be seen in the light of Qanun-e-Shahadat Order, 1984, whereas Sec.75 imposed the duty upon the Court to exhibit those documents, which are primary and in case when the original documents are not available during the trial, the documentary evidence should be tendered through secondary mode after getting permission from Court, failing which, the document has no evidentiary value in the eyes of law. PW-9 Hussain Bahadur/Magistrate has conceded in his cross-examination that, the original documents were not available at the time of recording of his evidence, therefore, it was the duty of the Court to requisition the original record, even the prosecution had not insisted to demand the same. Although, PW-9 Hussain Bahadur/Magistrate stated that, he has observed the requirements of the identification parade carried out in Adyala Jail, but during the evidence he has not referred his signature as exhibit rather the prosecution has not marked the signatures separately in order to confirm the report that the same was executed by PW-9 Hussain Bahadur/Magistrate.

22. While putting credence on the Article 73 of the Qanun-e-Shahadat Order, 1984, it is observed that, primary evidence, means the document itself must be produced for inspection of the Court and it is the requirement of Article 75 of the Qanun-e-Shahadat Order, 1984 that the document must be proved except in the cases, in which secondary evidence may be given, thus, it is settled proposition that any document produced, must be proved

in accordance with law, else it will not bear any legal effect. Reliance in this regard is placed upon on 1999 PCr.LJ 1955 (Alam Zaib vs. The State) wherein it is held that:

"It appears that despite clear directions original identification parade memo was not produced before the trial Court and the case was decided on the basis of the evidence already available on record. It may be observed here that in order to prove a document a particular mode has to be adopted under the law. Reference in this regard, may be made to Articles 73 to 76 of the Qanun-e-Shahadat Order, 1984 wherein it has been clearly provided that except in the cases covered by Article 76 of the Qanun-e-Shahadat Order, 1984 all documents must be proved by primary evidence. Needless to point out that Article 73 of the Qanun-e-Shahadat Order, provides that primary evidence means document itself produced for the inspection of the Court. Thus, to my mind the learned Trial Court was not justified to take on record photo copy of the document in question and that too, without making a comparison with the original. Such casual approach is not appreciable."

In view of above referred authoritative judgment, it can safely be concluded that, the documents tendered in evidence and admitted as exhibits, were not in accordance with the provisions of Qanoon-e-Shahadat Order, 1984, therefore, documents, whose contents have not been proved by way of its author, executor or witnesses of the contents and executions, are not admissible and no reliance, for the purposes of conviction, can be placed on Photostat copies of the documents. Therefore, entire documentary evidence regarding identification parade is inadmissible and cannot be relied upon for the purpose of conviction or to form any opinion.

23. The Apex Court has laid down certain principles regarding the identification parade in different judgments, which are reproduced herein below:

2011 SCMR 769 (Muhammad Ayaz and others vs. The State)

"28. Part 'C:' of the Chapter "11" of Volume III of the Rules and Orders of the Lahore High Court carries some commandments in the matter of identification parades which are in the following terms:--

- (1) List of all persons included in the parade should be prepared.---The Magistrate incharge of an identification parade should prepare a list of all persons, including the accused, who form part of the parade. This list should contain the parentage, address and occupation of each member of the parade.

(2) Note about identification by witnesses.---When any witness identifies a member of the parade, the Magistrate should note in what connection he is identified.

(3) Objection or statements by accused or identification witnesses to be recorded and power of Magistrate to decide objections.---Should the accused make any complaint or statement it should be recorded by the Magistrate. If from his personal knowledge the Magistrate is able to decide beyond doubt that the complaint is false or futile, a note to this effect should be made.

(4) Duty of Magistrate to record precautions taken and to note other points.--

(a)

(b) whether the person to be identified is handcuffed or is wearing fetters; and if so, whether or not other persons taking part in the parade are handcuffed or are wearing fetters, and also whether or not they are inmates of the Jail.

(5) 1.

2.

3. As an identification parade is a test of the identifying witness's ability to recognise the culprit by what he appeared to be at the time of the commission of the offence, it is fair both to the prosecution and the accused that the members of the parade should be presented in a normal state and, if possible, the dress of the parade should have resemblance to the accused as he appeared to the witness at the time of the commission of the offence. It should, therefore, be impressed upon the Magistrates in all districts to ensure, while conducting identification parades, that the members of the parade including the accused are not allowed "make up", are presented in a normal state and if possible the parade be dressed as the accused was reported to be by the witness at the time of the commission of the offence."

31. Likewise the absence of complete description of the dummies at the test identification parade without their addresses, their occupation and without any clue whether they were fellow prisoners or outsiders; the admitted dissimilarities in height, physique, features, complexion, appearance and dress of the dummies and the accused persons; the absence of any information whether the accused persons and the dummies were similar in the matters of beards or being clean-shaven; the absence of disclosure by the prosecution about the actual date of arrest of the three accused persons."

1985 SCMR 721 (Khadim Hussain vs. The State)

"The mere fact that a witness is able to pick out an accused person from amongst a crowd does not prove that he has identified that accused person as having taken part in the crime which is being investigated. It merely means that the witness happens to know that accused person. The

principal evidence of identification is the evidence of a witness given in a Court as to how and under what circumstances he came to pick out a particular accused person and the details of the part which that accused took in the crime in question. The statement made by such a witness at an identification parade might be used to corroborate his evidence given in Court, but otherwise the evidence of identification furnished by an identification parade can only be hearsay except as to the simple fact that a witness was in a position to show that he knew a certain accused person by sight."

1988 SCMR 557 (Ghulam Rasul and 3 Others vs. The State)

"Role of accused at time of commission of offence not described by witness--Inherent defect--Evidence of witness identifying accused in such identification parade lost its efficacy and not relied upon."

2001 SCMR 424 (Imran Ashraf and 7 others vs. The State)

"42. Thus their cases require to be dealt with separately but we consider it proper to reproduce Article 22 of Qanun-e-Shahadat Order, 1984 which deals with the facts necessary to explain or introduce relevant facts as well as some of the instructions issued by the Provincial Government to ensure proper and accurate identification parade as under:--

ARTICLE 22

22. Facts necessary to explain or introduce relevant facts.-- Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

INSTRUCTIONS

- (1) List of all persons included in the parade should be prepared.--The Magistrate in charge of an identification parade should prepare a list of all persons, including the accused, who form part of the parade. This list should contain the parentage, address and occupation of each member of the parade.
- (2) Note about identification by witnesses.--When any witness identifies a member of the parade, the Magistrate should note in what connection he is identified. A note should also be made if the witness identifies a person wrongly; in such a case it is incorrect to note that the witness identified nobody. All persons identified must be mentioned, whether the identification is right or wrong. If a witness, on being called for the purpose, states that he cannot make any identification, a note should be recorded by the Magistrate to this effect.

- (3) Objection or statements by accused or identification witnesses to be recorded and power of Magistrate to decide objections.--Should the accused make any complaint or statement it should be recorded by the Magistrate. If from his personal knowledge the Magistrate is able to decide beyond doubt that the complaint is false or futile, a note of this effect should be made, but in other cases it is advisable to leave any decision as to the value to be attached to the objection to the Court trying the case. The Magistrate should also record any statement made by a witness before making an identification.
- (4) Duty of Magistrate to -record precautions taken and to note other points.--The Magistrate should state--
 - (a) what precautions he has taken to ensure –
 - (i) that the witnesses do not see the person to be identified by them before the identification proceedings commence;
 - (ii) that no communication which would facilitate identification is made to any witness who is awaiting his turn to identify, and
 - (iii) that after making identification the witnesses do not communicate with other witnesses who have yet to do so;
 - (b) whether the person to be identified is handcuffed or is wearing fetters; and if so, whether or not other persons taking part, in the parade are handcuffed or are wearing fetters, and also whether or not they are inmates of the jail."

If the identification parade has not been conducted in the light of abovementioned settled principles of Apex Court, then the same has no value in the eye of law. In the instant case, the witnesses had already seen CD/pictures of accused prior to the identification parade and even when the descriptions of dummies had not been given as per the requirements or when witnesses had not been confronted with the role of each accused during the course of identification parade and the report of the identification parade is silent qua the specifications of the accused given by the witnesses in their statements U/S 161 Cr.P.C., therefore, the identification parade in the present case, does not qualify the test given above by the Apex Court through the supra authoritative judgments, and same is nullity in the eyes of law.

24. The entire discussion referred above give rise to a situation that, the eyewitnesses have not identified the accused/appellants in the Court nor even the two witnesses namely Irfan Maqbool and Syed Hassan Irfan have been produced by the prosecution in the trial to verify the contents of the identification parade report, even though the reports have not been exhibited on record and they have been placed in the form of photocopy, which is inadmissible in evidence. The three witnesses, PW-8 Mudassar Munir/Complainant, PW-10 Muhammad Asim Ibrar and PW-11 Muhammad Wasif have not identified the appellants in the Court, hence the entire edifice developed by the prosecution on the strength of identification parade, has crumbled down, and this evidently results into failure of prosecution case in its entirety.

25. Besides the above referred proceedings of identification parade, the prosecution has produced PW-4 Muhammad Rasheed/Constable, who witnessed the recovery on 16.01.2012 from Raza Khan amounting to Rs.200,000/- from his house i.e. Madina Town, Khanna Islamabad, through recovery memo Exh.PC., where after he stated that, he also witnessed another recovery proceedings dated 07.02.2012 wherein Rs.200,000/- was recovered from Street No.4, Khanna Dhak and recovery memo was prepared as Exh.PB, duly signed by him and Umar Daraz. PW-4 further stated before the Court that, he had received a copy of an FIR from Investigation Officer Asjad Mehmood/SI, recovered pistol, statement U/S 161 Cr.P.C., FIR No.305/2011, Fard Maqboozgi, hand grenade, six photographs and CCTV footage, which were taken into possession through Exh.____ (*No exhibit has been given*).

26. During the course of cross-examination, PW-4 admitted that, he entered into the house along with the police party and in presence of Asjad Mehmood/SI, the house contained 3/4 rooms and he is not aware as to

whether how many persons were living in it and he is also not aware regarding the owner of the house. He has not counted the recovered amount which was counted by the Investigation Officer, however he stated before the Court that, he is not aware that the recovered amount belongs to a case or is owned by someone. He stated before the Court that, he is not aware of the color of the trunk from where recovery was made nor he is aware if the lock was broken by them or not, however he admitted that they have not used any hammer or heavy thing to open up the trunk and that he is not aware as to whether any particular article has been recovered from the same or not and finally he stated that he had not called any neighbor to join the recovery proceedings.

27. In view of the testimony referred above, this witness has entirely demolished the recovery proceedings as he is not aware of any particular fact regarding the entire proceedings.

28. The other witness of the same set of recovery is PW-1 Umar Daraz/HC, who stated before the Court that, accused Raza Khan and Waseem Haroon who were arrested on 07.02.2012 in case FIR No.25/2012. Whereby, Raza Khan/accused was taken out for the purpose of investigation in the instant case, who disclosed the robbery details and stated that he had concealed his share (booty) in house No.4, Madina Town, Khanna, Dhak, Rawalpindi and on his pointation, the police witnesses entered into the said house and got recovered Rs.200,000/- from the pillow of bed. It was further disclosed that Rs.100,000/- belongs to dacoity committed in Bank Alfalah, Sabzi Mandi, Islamabad whereas the remaining Rs.100,000/- is relating to dacoity committed in Allied Bank, Sabzi Mandi, Islamabad, whereas recovery memo Exh.PB was prepared by the Investigation Officer and same was duly signed by Rasheed Constable.

29. Umar Daraz PW-1 further stated before the Court that, prior to aforesaid recovery, Raza Khan/accused led us to House No.4, Madina Town, Khanna Dhak, Rawalpindi on 16.01.2012 and got recovered Rs.200,000/- from an iron box placed in a room situated at upper portion of the house and disclosed that Rs.100,000 relates to dacoity committed in Bank Alfalah, Sabzi Mandi, Islamabad while the remaining Rs.100,000/- relates to dacoity committed in Allied Bank, Sabzi Mandi, Islamabad, the same was taken into possession through recovery memo Ex.PC.

30. PW-1 Umar Daraz further stated in his evidence that, on same day, i.e. 16.01.2012 Waseem Haroon/accused also disclosed that, he had concealed his share of booty in the house of Raza Khan/accused, where after he got recovered Rs.50,000/- from the pillow in the residential room, the same was taken into possession by Asjad Mehmood/IO through recovery memo Exh.PD. PW-1 Umar Daraz further stated in his evidence that, on the same day Waseem Haroon/accused led them to his house situated in Village Sorain, Dhoke Syedan, Section I-11/2, Islamabad and got recovered an amount Rs.100,000/- concealed in a pillow from a residential room in his house, which was taken into possession by the Investigation Officer through recovery memo Exh.PE.

31. PW-1 further stated that on 07.02.2012, Waseem Haroon/accused also got recovered motorcycle CD-70, bearing registration number LRG-7946, from the house situated in Street No.4 Khanna Dhak, vide recovery memo Exh.PF, who purchased the same for Rs.30,000/- out of his share of booty looted from Bank Alfalah.

32. The above referred statement of PW-1 Umar Daraz, remained un-rebutted as he was not cross-examined by any of the accused. I have gone through the entire record but could not find any details regarding cross-examination of PW-1. Nevertheless, the entire recovery proceedings,

effected from both the accused, can be recapitulated in the following outline:

Recovery from accused – Raza Khan		
Date	Recovery	Place of recovery
07.02.2012	Rs.200,000/- from pillow of the bed, out of which Rs.100,000 was share of booty of dacoity committed in Bank Alfalah Sabzi Mandi. Rs.100,000/- was booty of dacoity committed in ABL, Sabzi Mandi.	Street No.4, Madina Town, Khanna Dhak, Rawalpindi.
16.01.2012	Rs.200,000/- recovered from iron box placed in room situated at Upper Portion, out of which Rs.100,000 was share of booty of dacoity committed in Bank Alfalah Sabzi Mandi. Rs.100,000/- was booty of dacoity committed in ABL, Sabzi Mandi.	Street No.4, Madina Town, Khanna Dhak, Rawalpindi.
Recovery from accused – Waseem Haroon		
Date	Recovery	Place of recovery
16.01.2012	Rs.50,000/- from a pillow in a residential room of Raza Khan house.	Street No.4, Madina Town, Khanna Dhak, Rawalpindi.
16.01.2012	Rs.100,000/- from a residential room in a pillow	Village Sorain, Dhok Syedan, Sector I-11/2 Islamabad
07.02.2012	Motorcycle CD 70 bearing registration No. LRG-7946	Street No.4, Madina Town, Khanna Dhak, Rawalpindi.

33. The entire statement of PW-1 gives rise to following discrepancies in the recovery proceedings:

- i. On the disclosure of accused Raza Khan and Waseem Haroon, recoveries have been made on two different dates, i.e. 16.01.2012 and 07.02.2012, from the same place, i.e., Street No.4, Madina Town, Khanna Dhak, Rawalpindi.
- ii. The Investigation Officer and recovery witnesses were already aware of the fact that, part of looted amount was recovered on 16.01.2012 from same address and after the elapse of 24 days i.e. 07.02.2012,

another recovery was effected on the pointation of the same accused from the same place.

- iii. Motorcycle CD-70 LRG-7946 was also recovered on 07.02.2012 from same address, Street No.4, Madina Town, Khanna Dhak, Rawalpindi, whereas the recovery of money was already been made by the same accused on 16.01.2012 from the same place.

The above referred recoveries evidently indicate that, all the recoveries are fake, planted and were already in the knowledge of Investigation Officer, who investigated the accused/appellants at the first instance but managed the recoveries at two different dates from the same place, which do not appeal to a prudent mind, especially when the evidence clearly demonstrates that, witnesses and Investigation Officer have already visited the place on 16.01.2012 then there is no occasion left to get recovered additional amount and motorcycle on 07.02.2012, hence, the entire recoveries of amount and motorcycle is disbelieved and has no evidentiary value in the eyes of law.

34. Although, PW-1 Umar Daraz was not cross-examined but fact remains the same that recoveries referred on record do not appeal to a prudent mind to be believed. The recoveries mentioned above, have no legal worth and do not require any corroboration.

35. The prosecution has produced PW-3 Abdul Razzaq/SI, who conducted the initial investigation of the instant case as he received a written application from bank manger for registration of case (Exh.PF) and had taken over the CD of CCTV footage of the bank (Exh.PH) and also obtained four fingerprints cards through recovery memo (Exh.PJ), one repeater gun with 4 cartridges (Exh.PK), one iron rod, two cloth bags and one cycle lock through recovery memo (Exh.PL) and ultimately prepared Naqsha Mazrobi of both the security guards (Exh.PM) and

(PN). However, during the course of cross-examination, he admitted that:

"جب تک تفتیش میرے پاس رہی میں اس وقت تک کسی ملزم کی شناخت تک نہیں پہنچ سکا تھا۔ CD میں نے خود دیکھی تھی۔ CD میں ملزمان کے حملے واضح نہیں تھے۔ تاہم ملزمان نے چہرے ڈھانپے نہیں تھے۔ یہ غلط ہے کہ جملہ کاروائی فرضی و جعلی ہے۔"

36. The Investigation Officer, Asjad Mehmood/SI appeared as PW-12, who investigated the matter on 28.09.2011 and had obtained the warrant of arrest of accused Waseem Haroon. Raza Khan/accused, who was arrested in case FIR No.25/2012, P.S. Sabzi Mandi, disclosed the details of armed dacoity on 16.01.2012 and got recovered the amount of Rs.200,000/- from his residential house situated at Madina Town. PW-12 further stated before the Court that, he has prepared the recovery memo (Exh.PB) and also prepared the site plan and recorded the statements of witnesses. The Investigation Officer also stated before the Court that, Waseem Haroon/accused got recovered an amount of Rs.100,000/- from Sector I-11/2 Kachi Abadi vide recovery memo Exh.PE whereupon he was sent to judicial lockup on 17.01.2012 for the identification parade. He further stated that, on 18.01.2012, he filed an application to DC to arrange the identification parade, whereupon Hussain Bahadur/Magistrate was appointed to supervise the identification parade and on 20.01.2012, proceedings of identification parade were completed, wherein witnesses had identified two accused, where after he got physical remand of those two accused from the Court and on 07.02.2012, Raza Khan/accused got recovered an amount of Rs.100,000/- through recovery memo Exh.PC and on the same day, Waseem Haroon/accused got recovered Rs.50,000/- as well as a motorcycle LRG-7946 (Honda CD 70) along with registration record through recovery memos Exh.PD and Exh.PF and eventually submitted the final *Challan*.

37. During the course of cross-examination, the Investigation Officer admitted the fact that, both the appellants Raza Khan and Waseem Haroon

were already under arrest in case FIR No.25/2012 P.S. Sabzi Mandi, when they disclosed the details of the present case on 16.01.2012. He further admitted that, investigation of FIR No.25/2012 was also entrusted to him and he has not prepared any *فردا کشف* in this case. He has not prepared any *fard* regarding the house of Raza Khan/accused, and admitted before the Court that, at the time of recovery, the iron box was not locked and residents of the house were available in the house. He further admitted that Rs.200,000/- has not been produced before the Court nor even the same were identified by the bank officials. He also admitted that, the bank officials have not provided any details regarding the looted money. He admitted before the Court on 7th Feb, he got recovered an additional amount of Rs.200,000/- from the same house (joint house of the accused) and had not recorded the statement of the owner of the house nor even obtained any document of lease of the said house. He also admitted that he has not referred the disclosure of accused in any of the *Zimnis*.

38. Apart from the aforementioned admissions, the Investigation Officer also admitted before the Court that, the CCTV cameras of Bank Alfalah were functional and the CCTV footage was taken over by the previous Investigation Officer, however he conceded before the Court that, the recovered CD has not been placed on record nor attached with the Court file. He admitted before the Court that, he had not played the CD in presence of bank officials and witnesses in order to identify the accused. However, during the course of cross-examination he admitted that:

"اس سی ڈی میں ملزمان کی شناخت واضح نہ ہے۔ میں نے سی ڈی دیکھنے کے بعد اس میں نظر آنے والے ملزمان کے خدو خال، قد وغیرہ کے حوالے سے کوئی رپورٹ اپنی تفتیش کا حصہ نہیں بنائی۔ میں اس سی ڈی میں حاضرہ ملزمان کی شناخت نہیں کر سکا۔"

Investigation Officer, PW-12 Asjad Mehmood/SI further admitted before the Court that, he had not verified the registration of the recovered bike

from excise office nor even confirmed from whom it was purchased and even he has not produced the registration book before the Court.

39. In view of above evidence of Investigation Officer, following discrepancies have been noted:

- i. Investigation Officer PW-12 Asjad Mehmood/SI has not been able to conduct investigation as required in the cases of dacoity.
- ii. Investigation Officer has not verified the recovered money from the bank officials.
- iii. Investigation Officer has not verified the registration record of the motorcycle from excise office nor even verified the details regarding the purchase receipts of the same.
- iv. Investigation Officer has not produced the CCTV footage of the bank before the Court nor even placed with Challan U/S 173 Cr.P.C.
- v. Investigation Officer has not confirmed the ownership of the house from where recoveries have been made by the accused/appellants nor even recorded the statement of the owner of the said house and also failed to collect any lease agreement/document during the course of investigation.
- vi. Investigation Officer got recovered the looted amount from Raza Khan and Waseem Haroon, appellants, on two different dates, i.e. 16.01.2012 and 07.02.2012, from the same place, Street No.4, Madina Town, Khanna Dhak, Rawalpindi, which is unnatural and even the motorcycle LRG-7946 was recovered from the same place and there is no justification as to why the amount and motorcycle subsequently recovered, were not available on 16.01.2012 at the time of first recovery.
- vii. PW-12 Asjad Mehmood/Investigation Officer, PW-11 Muhammad Wasif/Intern, PW-10 Muhammad Asim/Account Officer, complainant

PW-8 Mudassar Munir/Branch Manager and PW-3 Abdul Razaq/SI/IO have not identified the appellants during the trial in Court.

- viii. Irfan Maqbool and Hassan Irfan, who have identified the appellants during the identification parade, have been given up vide order dated 07.03.2017 by the prosecution and not produced in the trial.
- ix. No charge U/S 395/412 PPC was ever been framed by any Court as the same is not available in the entire record.
- x. No charge under any of sections of PPC has been framed against the third appellant Attiq-ur-Rehman, neither available on record.
- xi. The identification parade dated 22.03.2013 of appellant Attiq-ur-Rehman has not been exhibited during the course of evidence, even the witnesses of the identification parade Irfan Maqbool and Hassan Irfan have been given up by the prosecution.
- xii. The identification parade report dated 20.01.2012 is an attested photocopy which has not been exhibited, although the same was referred as Exh.PP in the statement of PW-9 Hussain Bahadur/Magistrate.
- xiii. The statement of all the witnesses, PW-1 to PW-12, are not in sequence, rather they have been assigned different numbers as statement of last witness has been recorded as PW-10, whereas the record reveals total 12 witnesses, whereas, PW-5 Muhammad Fakhar Ayub has been renumbered as PW-6, PW-6 Mirza Muhammad Nisar has been renumbered as PW-7, PW-7 Mudassar Munir has been renumbered as PW-8, PW-8 Hussain Bahadur has been renumbered as PW-9, PW-8 Muhammad Asim has been renumbered as PW-10, PW-9 Muhammad Wasif has been renumbered as PW-11, PW-10 Asjad Mehmood has been renumbered as PW-12.

40. From the perusal of entire record, it has been observed that, this case is the worst example of entire legal and police system, wherein the bank officials, eye witnesses, Investigation Officers, recovery witnesses, prosecuting inspector and the Trial Court have not engaged themselves in a manner as required under Criminal Justice System, and the same is evident from the record, especially when the Judicial Magistrate has not taken into account that no charge was ever framed against the appellants, even the Trial Court has not bothered to see the record, despite the fact that the trial was conducted by three different Courts, i.e., statement of PW-1 was recorded by the Court of Raja Khurram Ali Khan, ASJ (West-IV) Islamabad, statements of PW-2 to PW-5 were recorded by the Court of Mr. Humayun Dilawar, Judicial Magistrate Sec.30 (West) Islamabad whereas statements of PW-6 to PW-12 were recorded by Mr. Rasool Bakhsh Mirjat, Judicial Magistrate Sec.30 (West) Islamabad and the final judgment was also passed by that Court.

41. The Javed Atta/Prosecuting Inspector had got recorded his statement before the Court and had given up three witnesses i.e. Muhammad Arif, Irfan Maqbool and Hassan Irfan, while stated that:

"بیان کیا کہ گواہ محمد عرفان، عرفان مقبول اور حسن عرفان کو غیر ضروری سمجھتے ہوئے ترک کرتا ہوں۔"

Whereas, Irfan Maqbol and Hassan Irfan were the eyewitnesses, who had identified the accused during the course of identification parade carried out in Adyala Jail and they were intentionally not produced by the prosecuting agency, which speaks volume about the conduct and the manner, in which the prosecuting agency has conducted the trial, therefore, it has been observed from record that, the Prosecuting Inspector has not been able to consume the basic requirements of trial, through which the prosecution could prove its case, as he has given up the most valuable witnesses and that too without any justification.

42. I have gone through the judgment of the Trial Court, whereby the Trial Court has referred the date of framing of charge as 28.02.2011, whereas the said charge is only to the extent of Sec.17 Offences against Property (Enforcement of Hudood) Ordinance, 1979, which was later on deleted by Ms. Rakhshanda Shaheen, ASJ (West) Islamabad vide order dated 03.10.2013, but the same has not been considered by Trial Court while passing the impugned judgment and no fresh charge has been framed U/S 395/412 PPC. It has further been observed from the impugned judgment that, the Trial Court has based its conviction upon the evidence of identification parade carried out in presence of PW-9 Hussain Bahadur, Magistrate and the identification parade report Exh.PP has been given effect but the Trial Court has not taken into account the fact that eyewitnesses, namely, Irfan Maqbool and Hassan Irfan, of identification parade were given up by the prosecution vide their statement/order dated 07.03.2017. It has further been observed from the impugned judgment of the Trial Court that, recoveries have been believed by the Trial Court and the same have been considered as one of the reason for conviction, although the Trial Court has not taken into account the fact regarding recoveries from the same place at two different dates, which is the material defect of the recovery proceedings. I have gone through the entire judgment time and again, whereby the Trial Court has referred the looted amount as Rs.20,38,000 in Para.16 and Para.21, which is against the statement of PW-8 Mudassar Munir, Manager Bank Alfalah, whereas the alleged looted amount as referred by the complainant PW-8 is Rs.38,20,000/-. It has further been observed from Para.25 of the impugned judgment, which is as under:

"25. It is therefore, the identification parade of accused Raza Khan, Waseem Haroon and Atiq-ur-Rehman is proved that same was conducted they were dully identified by the complainant

during test identification parade without having any malafide, enmity or motive of false implication."

That the Trial Court passed the conviction order on the ground that accused Raza Khan, Waseem Haron and Atiq-ur-Rehman have been identified by the complainant/PW-8 Mudasar Munir during the identification parade, whereas the statement of PW-8 referred in Para.16 of the said judgment is in contradiction as PW-8 never identified any of the appellant in Jail, which is evident from his statement recorded by the Court.

43. In view of above reasons, this Court is convinced that, the prosecution miserably failed to prove anything against the appellants rather there is no charge against the appellants, whereas in such like case, matter shall be remanded to Trial Court for *de novo* trial, but I am fully convinced that when eyewitness had not identified the appellants, even witness of identification parade have not been produced, then there is no valid justification to remand the matter, as if charge would have been framed, even then the other material discrepancies will not be cured as there is no direct evidence available against the appellant, therefore, the remand order is not justified in such like circumstances, similarly the identification parade as well as recoveries, are illegal and having no sanctity in the eyes of law, CCTV footage has not been produced, eyewitnesses have failed to identify the accused/appellants in Court and even no witness of identification parade has been produced in trial, the Trial Court has not passed the impugned judgment of conviction on the basis of any evidence rather the entire judgment is based upon no evidence. Hence, the instant appeal i.e. Criminal Appeal No.56/2017 is allowed and the conviction passed by Mr. Rasool Bakhsh Mirjat, Judicial Magistrate Sec.30 Islamabad (West) through judgment dated 06.04.2017 is hereby set-aside and all the appellants are acquitted from case FIR No. 296/2011 dated 23.06.2011,

U/S 395/412 PPC, P.S. Sabzi Mandi, Islamabad, therefore, appellants be released forthwith, if not required in any other case.

44. Before parting with the instant judgment, it has been observed with great concern that the Trial Court as well as other Courts, which remained seized with the matter, did not perform their duties diligently and their negligence is apparent from record, whereas following factors are necessary to be looked into by the Trial Courts:

- a) Charge should be framed with specific allegations which includes the date, time and name of the accused as well as the description of offence, if available on record.
- b) The Sessions Judges of both the Divisions shall pass directions to their Judicial Magistrates to scan the cases after their transfer from any other Court regarding confirmation as to whether the charge was properly framed or not, and if any discrepancy is found, the same should be rectified at the proper stage.
- c) Documentary evidence should be exhibited in accordance with Qanun-e-Shahadat Order, 1984.

(MOHSIN AKHTAR KAYANI)

JUDGE

Announced in open Court on: 14th June, 2017.

JUDGE

Approved for reporting.