IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
Mr. Justice Jamal Khan Mandokhail
Mr. Justice Syed Hasan Azhar Rizvi
Ms. Justice Musarrat Hilali

Criminal Petitions No.1690-L & 1691-L of 2016

[Against the judgment dated 16.11.2016, passed by the Lahore High Court, Lahore in Criminal Appeals No.1701 of 2015 and 1578 of 2015]

Imtiaz Latif and others. *(in Crl.P.No.1690-L)*
Muhammad Afzal. *(in Crl.P.No.1691-L)*
...Petitioner(s)

Versus

The State through Prosecutor General, Punjab, Lahore and another. *...Respondent(s)*

For the Petitioner(s) (in both cases)	:	Mr. Muhammad Akram Qureshi, ASC *(via video link from Lahore)*
For the State	:	Mr. Irfan Zia, DPG, Punjab
For Respondent No.2 (in Crl.P.No.1690-L)	:	Mr. Sikandar Zulkarnain Saleem, ASC *(via video link from Lahore)*
Date of Hearing	:	27.03.2024

JUDGMENT

Syed Hasan Azhar Rizvi, J. This judgment shall decide both these petitions as common questions of law and facts are involved therein and are directed against the consolidated judgment dated 16.11.2016, passed by the Lahore High Court, Lahore **(the High Court)** in Criminal Appeals No.1701 and 1578 of 2015.

2. Tried by the learned Judge, Anti-Terrorism Court, Lahore **(Trial Court)** in a case *vide* FIR No.461 of 2014 dated 23.10.2014 for offences under Sections 365-A, 392 PPC read with Section 7 of the Anti-Terrorism Act, 1997 **(ATA)** registered at Police Station Kot Radha Kishan, District Kasur, the petitioners were

convicted and sentenced *vide* judgment dated 31.08.2015, as under:-

i) **Under Section 148 PPC:** Three years RI along with fine of Rs.25,000/- and in case of non-payment, the convict shall have to suffer further six months SI.

ii) **Under Section 365-A PPC:** Imprisonment for life along with forfeiture of all the property in favour of State.

iii) **Under Section 7(e) ATA:** Imprisonment for life.

iv) **Under Section 392 PPC:** Imprisonment for Ten Years RI along with fine of Rs.100,000/- and in case of non-payment, the convict shall have to suffer further six months SI.

All the sentences handed down to each accused shall run concurrently, benefit of Section 382-B Cr.P.C. was extended to them.

3. Being aggrieved with the above verdict of the trial Court, the petitioners approached the High Court by filing criminal appeals, which were dismissed through impugned judgment dated 16.11.2019; hence these petitions for leave to appeal.

4. The facts of the case, as gathered from the FIR, are that the complainant is an agriculturalist and belongs to a well-settled family. His uncle, namely Javed Shah son of Ahmad Hayat is a resident of Kot Nasir Khan and used to lookafter their agricultural fields; his inmates are residing at 82-C Model Town, Lahore. On 22.10.2014, at about 04:30 P.M, after completing his routine work, his uncle started to move towards Lahore, while bringing milk for his children, in his car bearing registration number LEA-1357, Model 2013, Silver Colour. After covering a certain distance, he observed that three persons (accused) were waiting for a lift on the road and gestured his uncle to stop the car. Eventually, he stopped the car and provided lift to them.

When they reached at a certain distance, all accused took out and loaded their respective pistols. The accused sitting at the

front seat put the pistol at the ear of his uncle and directed him to move at the rear seat. Owing to fear, his uncle came to the rear seat in the centre and accused sitting at rear seat i.e., right and left took out their pistols and said to the abductee that he will be killed in case he makes any noise. Afterward, the accused sitting at the front seat drove the car and accused sitting at the rear seat took out cash amount of Rs.200,000/- (Two lacs), Identity Card and a driving licence from the pocket of the abductee. Abductee's face and head were covered with cloth. Each of the two accused sitting on his left and right side injected him to make him semi-conscious. The alleged persons forcibly abducted his uncle at a gunpoint.

At about 9:45 P.M, the complainant received a call from his uncle's mobile number 0321-7009315 at his number 0345-07866649 that they had abducted his uncle for ransom and demanded amount of Rs.50,00,000/- (Fifty lacs) within half an hour. The complainant requested for some time since the banks were closed during night hours and he could manage only Rs. 1,000,000/- (Ten lacs) at the moment. The accused persons asked him to take this amount and come to Jamber More otherwise he will find the dead body of his uncle in case he informs the police about this incident. The complainant kept the cash amount of Rs.1,000,000/- (Ten lacs) in a brown coloured bag and proceeded to Jamber More. Upon reaching there, he found a car whose lights were switched on. Then two persons came towards the complainant and received the amount with the instructions that they would let free his uncle after one and half hour at Attock Petrol Pump near Saloni Jhal, Faisalabad Road. The accused persons fled away after receiving the ransom amount. After one

and a half hour, the complainant accompanied by his uncle Liaquat Ali Shah son of Ahmed Hayat reached at Attock Petrol Pump Saloni Jhal, where they observed that the abductee was lying in semi-conscious condition alongside the road. The Security Guards deployed at Petrol Pump told them that a black colour car speedily came and threw his uncle from the car and fled away in which a woman, a child and two persons were present. Eventually, they informed the local police that a black colour car fled away after throwing the complainant's uncle. The information given to Tarkhaniwali police was that the accused persons fled away in the car bearing registration number ACK-728, Toyota Corolla, Black Colour, Model 1999. The complainant sprinkled water on his uncle's body. After a few minutes, he became conscious and narrated the whole story.

It was stated that unknown culprits abducted his uncle for the ransom and snatched Rs.200,000/- (Two Lacs) along with Identity card and driving licence. Therefore, on the statement of the complainant, FIR No.461 dated 23.10.2014, under Sections 356-A, 392 PPC read with Section 7 ATA was registered at Police Station Kot Radha Kishan.

5. The learned counsel for the petitioners contends that the petitioners have falsely been roped in the case; that Section 7(e) ATA is not attracted in the case; that there are a number of contradictions in the FIR and testimonies of the witnesses specifically abductee himself provides contradictory statements regarding the incident; that the impugned judgment passed by the High Court is against the facts and law; that the High Court has not taken into consideration the evidence available on the record; that the impugned judgment is perverse and whimsical in nature

and that the prosecution has failed to prove its case beyond any shadow of doubt. In support of his contentions, reliance is placed to the case reported as *Ghulam Hussain and others* **versus** *The State* (PLD 2020 SC 61).

6. On the other hand, the learned Law Officer, assisted by the learned counsel for the complainant, while defending the impugned judgment submits that the findings of the Courts are based on proper appreciation of evidence available on the record and the petitioners have been convicted and sentenced as per the law.

7. We have heard the learned counsel for the parties so also the learned Law Officer at a considerable length and scanned the material available on the record with their able assistance.

8. Two main questions arise in the present appeal; firstly, whether provisions of the Section 7(e) ATA attract in the facts and circumstances of the present case; and secondly whether the prosecution has been able to prove its case beyond any reasonable doubt.

I. WHETHER PROVISIONS OF SECTION 7(e) ATA ATTRACT IN THE FACTS AND CIRCUMSTANCES OF THE PRESENT CASE?

9. Section 7(e) ATA prescribes the punishment for an act of terrorism under Section 6 ATA, whereby offence of kidnapping for ransom or hostage has taken place. Therefore, before delving in Section 7 ATA, it is necessary to understand what is meant by act of terrorism under Section 6 *ibid*, which is reproduced herein below:-

> **"[6. Terrorism**.-(1) In this Act, "terrorism" means the use or threat of action where:-
> (a) the action falls within the meaning of sub-section (2); and
> (b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or a foreign government

> or population or an international organization or create a sense of fear or insecurity in society; or
> (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians, including damaging property by ransacking, looting, arson or by any other means,
> government officials, installations, security forces or law enforcement agencies:
> Provided that nothing herein contained shall apply to a democratic and religious rally or a peaceful demonstration in accordance with law.
> (2) An "action" shall fall within the meaning of sub-section (1), if it:-
> (a)
> (b)
> (c)
> (d)
> (e) involves kidnapping for ransom, hostage-taking or hijacking;
> ....."

The bare perusal of the above section indicates that the actions specified in subsection (2) constitute the offence of terrorism only if such actions are accompanied by the 'design' or 'purpose' specified in clauses (b) or (c) of subsection (1) of section 6 ATA.

10. The words "design" or "purpose" used in Section 6 ATA carry significant legal weight and require careful scrutiny. "Design" typically refers to a deliberate plan or intention behind an action.[1] It implies a conscious decision or strategy aimed at achieving a particular outcome. In the realm of anti-terrorism law, this could encompass activities planned with the objective of inciting fear, coercing a government, or destabilizing society for ideological, political, or religious reasons. Courts must consider factors such as premeditation, coordination, and the existence of a systematic scheme when determining whether an act meets the threshold of having a terrorist "design." The expression "purpose," on the other hand, refers to the underlying reason or objective motivating an action.[2] It encompasses the broader aims or goals sought to be achieved through the commission of a particular act.

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[1] Black's Law Dictionary, 8th edition, Bryan A. Garner, page. 478
[2] Black's Law Dictionary, 8th edition, Bryan A. Garner, page. 1271

In the context of anti-terrorism legislation, the purpose may involve furthering a terrorist organization's objectives, promoting a particular ideology, or advancing a political agenda through violence or intimidation.

11. The *mens rea* requirement that needs to be established for an act of terrorism has been discussed by this court in the case of ***Waris Ali and 5 others v. The State,***[3] as under:-

> "Under the jurisprudence, "mens rea" is an essential ingredient of every crime, needs to be attended first by the Courts of law however, in cases of terrorism or terrorist activities the "mens rea" becomes twofold, i.e. the first object is to commit a crime, while the primary object of "mens rea" in the second fold speaks of terrorism related ideology, purpose and object, the most nefarious and detestable designs to commit crimes, creating sense of fear, insecurity and instability in the society and community with the ultimate object to destabilize the State as a whole. The true and perceivable object of this second "mens rea" is to create chaos, large scale disturbances, widespread sense of insecurity in the society/public and to intimidate and destabilize the State as a whole by means of terrorist activities.
> 10. In cases of this nature, "mens rea" is essentially with an object to accomplish the act of terrorism and carrying out terrorist activities to overawe the State, the State Institutions, the public at large, destruction of public and private properties, make assault on the law enforcing agencies and even at the public at large. The ultimate object and purpose of such acts is to terrorize the society or to put it under constant fear while in ordinary crimes committed due to personal vengeance/blood feud or enmity, the element to create fear or sense of insecurity in the society, public by means of terrorism is always missing."

12. In the case of ***Ghulam Hussain***[4] *(supra)*, this court has comprehensively interpreted/elucidated the applicability of the provisions of the ATA, relevant portion wherefrom is reproduced herein below:-

> "20. By way of summing up we may observe that, keeping in view the latest definition of 'terrorism' contained in section 6 of the Anti-Terrorism Act, 1997, mere gravity or brutal nature of an offence does not provide a valid yardstick for branding the same as terrorism. In order to qualify as terrorism the motivation behind the offence has to be political in the extended sense of the word and, as provided in the United Kingdom law, "the use or threat is made for the purpose of advancing a political, religious or ideological cause" and the act has to be designed to destabilize the society at large. The history of crimes in the human society is replete with macabre, gruesome and horrifying offences shocking the society at large yet such

[3] 2017 SCMR 1572
[4] PLD 2020 SC 61

crimes were never treated or accepted as terrorism because the motivation was personal and private. As against that even an unsuccessful attempt at sabotage of public supplies or services has readily been accepted as terrorism because the purpose behind the act is to destabilize the society at large. Even a petty theft in a house in a street is likely to create a sense of insecurity in the people living in that street, a rape of a young girl is bound to send jitters in every family having young girls living in the relevant locality, a murder in the vicinity surely creates a grave sense of fear in the inhabitants of the area, a bloodbath in furtherance of an on-going feud shocks the society as a whole, a massive fraud in a bank may send shockwaves throughout the banking and financial sectors and an offence committed against a member of any profession may render the other members of that profession feeling vulnerable and insecure. But all such offences are ordinary crimes distinguishable from terrorism because for the former the motivation is personal and private whereas for the latter the purpose has to be to destabilize the society at large. In this backdrop a premature, speculative, presumptive and imaginary quantification of the effect of an action so as to determine the nature of the act as terrorism or not appears to be an unsure and subjective test and it would be safer and consistent to revert to the principle of nexus carved out by the Hon'ble Supreme Court of Pakistan which is not only now a statutory requirement but the same is also consistent with the first major enunciation of the relevant law by our Supreme Court and that too by a Bench larger than any other Bench deciding any of the other cases mentioned above.

22. Judged on the basis of the requirements of the amended provisions of section 6 of the Anti-Terrorism Act, 1997 and examined on the touchstone of the principle of nexus propounded by the largest Bench of the Hon'ble Supreme Court of Pakistan in the case of Mehram Ali and others v. Federation of Pakistan and others (PLD 1998 SC 1445), reiterated by an equally large Bench of it in the case of Jamat-i-Islami Pakistan through Syed Munawar Hassan, Secretary-General v. Federation of Pakistan through Secretary, Law, Justice and Parliamentary Affairs (PLD 2000 SC 111) and applied by it in the case of Ch. Bashir Ahmad v. Naveed Iqbal and 7 others (PLD 2001 SC 521) the case in hand, despite the brutality displayed by the culprits and the consequent horror, shock, fear and insecurity likely to be created by the savagery perpetrated by the offenders, has not appeared to us to be a case of terrorism as the motive for the alleged offences was nothing but personal enmity and private vendetta and the motivation on the part of the accused party was not to overawe or intimidate the government, etc. or to destabilize the society at large or to advance any sectarian cause, etc.. The intention of the accused party did not depict or manifest any 'design' or 'purpose' as contemplated by the provisions of section 6(1)(b) or (c) of the Anti-Terrorism Act, 1997 and, thus, the actus reus attributed to it was not accompanied by the necessary mens rea so as to brand its actions as terrorism triable exclusively by a Special Court constituted under the Anti-Terrorism Act, 1997. The stand taken before us by the learned Assistant Advocate-General appearing for the State also proceeds on the same lines and it is for these very reasons that the State has chosen not to oppose this petition. This writ petition is, therefore, allowed, the impugned order passed by the learned Judge, Anti-Terrorism Court-II, Gujranwala on 04.10.2003 is declared to be without lawful authority and of no legal effect and the same is set aside, the application filed by the petitioner before the said court under section 23 of the

> Anti-Terrorism Act, 1997 is accepted and the petitioner's case is declared to be triable by a court of ordinary jurisdiction. The learned Judge, Anti-Terrorism Court-II, Gujranwala is directed to transmit the record of the petitioner's case to the learned District and Sessions Judge, Gujranwala forthwith for further proceedings in the matter. There shall be no order as to costs."

13. For an act to be classified as terrorism, it must have a political, religious, or ideological motivation aimed at destabilizing society as a whole. While heinous crimes may shock society, if they are driven by personal motives, they do not qualify as terrorism. Reference may be made to the case of ***Muhammad Mushtaq v. Muhammad Ashiq and others***[5] wherein this court has observed:-

> "It would thus appear that ordinary crimes are not to be dealt with under the Act. A physical harm to the victim is not the sole criterion to determine the question of terrorism."

Similarly, in the case of ***Waris Ali and 5 others v. The State,***[6] it was ordained:-

> "11. True, that the offences contained in the Schedule to the Anti-Terrorism Act would fall within the definition of terrorism and terrorist activities but the crimes committed due to private revenge or to say traditional crimes, cannot be dragged into the fold of terrorism and terrorists activities."

Moreover, in the case of ***Fazal Dad v. Col. (Rtd.) Ghulam Muhammad Malik and others,***[7] it has been held:-

> "In case the aforesaid provisions and contents of F.I.R. are put in a juxta position then section 6 of the said ordinance is not attracted. It is a settled law that preamble is always key to interpret the statute. The very object to promulgate the Anti-Terrorism Act, 1997 was to control the acts of terrorism, sectarian violence and other heinous offences as defined in section 6 of the Act and their speedy trial to bring the offence within the ambit of the act, it is essential to examine that the said offence should have nexus with the object of the act and offences covered by its relevant provisions such as section 6. It is a settled law that provisions of law must be read as a whole in order to determine its true nature, import and scope ---."

In view of above, it can be observed that mere severity of an offence does not make it terrorism.

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[5] PLD 2002 SC 841
[6] 2017 SCMR 1572
[7] PLD 2007 SC 571

14. In order to determine whether an offense falls within the scope of Section 6 ATA, it is imperative to have a glance over the allegations levelled in the FIR, the case record, and the surrounding circumstances. It is crucial to assess whether the elements of the alleged offence are connected to the objectives outlined in Sections 6, 7, and 8 ATA. The assessment of whether a specific act constitutes terrorism depends on examining its motivation, objective, design, or purpose. It is essential to ascertain whether the act in question has instilled a sense of fear and insecurity in the public, a specific community, or any sect.

15. Examining the case in hand on the above touchstone, it is evident from the record that the accusation of kidnapping for ransom involves five individuals allegedly motivated solely by financial gain. The present incident is alleged to be a short term kidnapping for ransom that lasted only for 5 to 6 hours and the abductee was released allegedly upon receipt of the demanded ransom amount. The petitioners lack a prior criminal history, therefore, this does not meet the criteria for terrorism as the two fold *mens rea,* as stated above, is missing

Moreover, the statement of the petitioner, namely Muhammad Afzal under Section 342 Cr.P.C., reveals that an enmity existed between the parties on account of agricultural lands and he also produced defence evidence in this regard, however, the trial Court failed to appreciate the same. Hence, it has no connection with the act of terrorism. As the intention of the petitioners was not at all to create sense of insecurity or to destabilize the public at large or to advance any sectarian cause, we are of the view that the design or purpose of the offence as

contemplated by the provisions of Section 6 ATA is not attracted, consequently Section 7(e) ATA becomes inapplicable.

II. WHETHER PROSECUTION HAS PROVED ITS CASE BEYOND ANY SHADOW OF DOUBT OR NOT?

16. It is an established principle of criminal jurisprudence that for an accused to be convicted, the prosecution must establish its case beyond a reasonable doubt. Until proven guilty by the prosecution beyond reasonable doubt, the accused is presumed innocent. The burden of proof lies entirely on the prosecution, and the accused is not required to provide evidence to refute the prosecution's claims. Mere presumption of innocence associated with the accused is adequate to warrant acquittal, unless the Court is fully convinced beyond reasonable doubt regarding the guilt of the accused, following a thorough and impartial examination of evidence available on the record.

17. Meaning of the expression “reasonable doubt” has been comprehensively dealt with by this Court in the case of ***Muhammad Asghar alias Nannah and another v. State,***[8] as under:-

> “6. The meaning of reasonable doubt can be arrived at by emphasizing the word "reasonable". It is not a surmise, a guess or mere conjecture (State v. Griffin, 25 Conn. 195, 206 (2000). It is not a doubt raised by anyone simply for the sake of raising a I doubt. It is such a doubt as, in serious affairs that concern any one and that such a doubt would cause reasonable men and women to hesitate to act upon it in matters of importance (State v. Morant, 242 Conn. 666, 688 (1997). It is not hesitation springing from any feelings of pity or sympathy for the accused or any other person who might be affected by the decision. It is, in other words, a real doubt, an honest doubt, a doubt that has its foundation in the evidence or lack of evidence (State v. Velasco, 253 Conn. 210, 249 (2000). It is doubt that is honestly entertained and is reasonable in light of the evidence after a fair comparison and careful examination of the entire evidence (State v. Torres, 82 Conn. App. 823, 836-37 (2004).”

18. This Court has maintained a consistent approach that presumption of innocence remains with the accused till such time the prosecution on the evidence satisfies the Court beyond a

[8] 2010 SCMR 1706

reasonable doubt that the accused is guilty. The two concepts i.e. "proof beyond a reasonable doubt" and "presumption of innocence" are so closely linked together, that they must be presented as a unit. If the presumption of innocence is the golden thread of criminal justice then proof beyond a reasonable doubt is the silver and these two threads are forever intertwined in the fabric of criminal justice.[9] Therefore, the expression is of fundamental importance to our criminal justice system. It is one of the principles, which seeks to ensure that no innocent person is convicted.[10] Thus, it is the primary responsibility of the prosecution to substantiate its case against the accused and the burden of proof never shifts, except in cases falling under Article 121 of the Qanun-e-Shahadat Order, 1984.

19. The proof beyond a reasonable doubt requires the prosecution to adduce evidence that convincingly demonstrates the guilt of the accused to a prudent person. A reasonable doubt is a hesitation, a prudent person might have before making a decision.

20. After reassessment of the available evidence, we find that the prosecution has failed to prove its case beyond reasonable doubt against the petitioners for following reasons:-

i) There was no eye-witness to the abduction.

ii) According to available record, FIR was registered after the recovery of abductee who had previous acquaintance with the petitioners despite of that he did not disclose the names of accused persons rather he nominated them at a belated stage through a supplementary statement dated 27.10.2014. In the FIR complainant only disclosed about three persons who sought lift and abducted his uncle on gun point but failed to make any

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[9] Muhammad Asghar alias Nannah and another v. State [2010 SCMR 1706]
[10] Ibid para 5.,

mention of the accused persons who were standing therein at the motorcycle. Thus, the fact that petitioners were nominated at a belated stage through supplementary statement, speaks volumes about the deliberations and consultations on the part of complainant and victim.

iii) Occurrence of abduction in the case at hand is unseen. The entire case of the prosecution is based on the testimonies of the twelve prosecution witnesses. The ocular account and evidence of abduction for ransom has been furnished by Javed Hayat, abductee (PW-9) and Amjad Hayat, complainant (PW-11). Muhammad Irfan (PW-6) and Muhammad Razaullah (PW-7) have furnished evidence of releasing of abductee. Haji Muhammad, C-650 (PW-2), Munir Ahmed ASI (PW-4), Akhtar Ali, C-3096 (PW-5) and Dil Muhammad (PW-10) are recovery witnesses.

iv) Perusal of the statement of the Javed Hayat, abductee, (PW-9) reveals major contradictions in his version. In his examination-in-chief he made following statement:-

> "... As soon as car was stopped, I started to make hue and cry that people are going to abduct me. On my hue and cry, guards and employee of petrol pump attracted towards the car but the accused at once drove the car. When the car reached at main road, then a container came there, due to this speed of the car become low, then I jumped out the car, then the accused ran away alongwith car."

However, in his cross-examination, he contradicted the said version and stated as follows: -

> "I did not recorded in my statement that on account of slow speed I jumped out of the car. PW Explained that person threw me out of the car."

Apart from this, he also stated about the injections that were administered to him by two petitioners, the relevant part thereof is reproduced below:-

> "... Both persons sitting behind injected one injection each on my both hands on which I become semi-conscious."

However, no medical examination of the abductee was conducted to verify this fact. Moreover, no traces of said injections were recovered either from car of the abductee or from the possession of petitioners. Abductee in his testimony has admitted that his mobile phone which was used by petitioners for demanding ransom was recovered by the police however no recovery memo is available on record.

v) The record further reveals that Amjad Hayat (PW-11) deposed that the call for ransom was received by him on his phone number, however, he did not provide any Call detail Record **(CDR)** to substantiate his statement specifically given the fact that there is no other person from the family, who witnessed the receipt of the said call for ransom. The perusal of his testimony reveals that he alone went to the Jumber More for delivering the demanded ransom amount to the petitioners, hence, the incident of delivery of ransom money was also not witnessed. Furthermore, he did not mention any particulars, colour, model, etc., of the car in which the petitioners came to receive the ransom amount or the car in which he went to handover the ransom money.

vi) Admittedly, police reached on the petrol pump on intimation of the employees of petrol pump, however, no FIR was registered regarding the said incident rather FIR was registered on 09:20 A.M on 23.10.2014. The Toyota car allegedly used by the petitioners was recovered by the police, prior to registration of FIR, at about 02:30 A.M on the same night when abductee was released.

vii) All the recovery witnesses are either police officials or complainant and his relatives. All Prosecution witnesses are

interested and no independent witness was associated to recovery proceedings that amounts to violation of the mandatory provisions of section 103 Cr.P.C.

21. The learned Courts below also relied upon the recoveries of motorcycle, pistols and recovery of part of the ransom money at the instance of petitioners. It is not safe to rely on these recoveries because so far as motorcycle is concerned, no such detail was disclosed in the FIR. This omission is fatal in the circumstances of the case when the machinery of law was set in motion after the recovery of abductee who himself narrated the entire story but still failed to mention that the accused persons were on motorcycle. The recoveries of weapon is also not of much help to the prosecution as no particulars of said weapons were mentioned in the FIR rather it was only stated that all accused were duly armed with pistols. Giving of Rs.1,000,000/- (Ten Lacs) to the petitioners' side was not proved by the complainant as no denomination of currency notes was disclosed either in the FIR or before the learned trial Court. The complainant stated in the FIR and also during his cross-examination that he had not drawn the said Rs.1,000,000/- (ten lacs) from the Bank and explained that he had the amount available in his home. When the fact of giving Rs.1,000,000/- (ten lacs) by the complainant for the release of abductee is not proved, therefore the alleged recoveries of part of the ransom amount at the instance of the petitioners are inconsequential and cannot be relied for maintaining the conviction and sentence of the petitioners.

22. There are major contradictions in the prosecution's case, which were overlooked by the Courts below. We are

constrained to hold that prosecution has failed to prove its case beyond any reasonable doubt.

23. Consequently, these petitions are converted into appeals and are allowed. The appellants are acquitted of the charge. They shall be set at liberty, if not required to be detained in any other case.

24. Above are the reasons for our short order pronounced on even date.

JUDGE

JUDGE

JUDGE

Islamabad, the
27th March, 2024
APPROVED FOR REPORTING
*Ghulam Raza, & Paras Zafar, LC /**