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**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Muhammad Hashim Khan Kakar  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Ishtiaq Ibrahim

18/25

**Crl. Appeal No.679 of 2020**

(Against the judgment dated 24.05.2016, passed  
by the learned Lahore High Court, Lahore in  
Cr.Appeal No.290-J of 2013)

***Muhammad Qasim and others***

...Appellant(s)

***Versus***

***The State etc.***

...Respondents

For the Appellants:

M/S Basharatullah Khan and Muhammad  
Munir Paracha, ASC.

For the complainant:

Nemo

For the State:

Ms. Memoona Ihsan ul Haq, DPG.

Date of hearing:

04.03.2025

**JUDGMENT**

**ISHTIAQ IBRAHIM, J.**-Appellant Muhammad Qasim, Muhammad Asif, Sharafat Waqas and Muhammad Saeed Khan along with co-accused Mst. Nimra Chaudhary alias Ayesha Kanwal were tried by the learned Anti-Terrorism Court, Faisalabad ("Trial Court"), in case FIR No.379 dated 05.11.2012, registered under section 365-A of the Pakistan Penal Code ('PPC') at Police Station Balochani District Faisalabad and vide judgment dated 12.09.2013 the appellants along with co-accused Mst. Nimra Chaudhary were convicted under section 365-A PPC and sentenced to imprisonment for life. They were also convicted under section 7(e) of the Anti Terrorism Act, 1997 ('Act of 1997') and sentenced to imprisonment for life. Their moveable and immovable properties were also ordered to be confiscated in favour of the State. Benefit of Section 382-B of the Code of Criminal Procedure, 1998 ('Code') was extended to them.

All the sentences were ordered to run concurrently. Aggrieved thereof, the appellants and co-accused Mst. Nimra Chaudhary filed separate appeals before the learned Lahore High Court, Lahore and the learned Judges of the High Court through a consolidated judgment dated 24.05.2016, dismissed Cr.A No.290-J of 2013 of the appellants, however, allowed Cr.A. No.292-J of 2013 of Mst. Nimra Chaudhary and she was acquitted.

2. Feeling aggrieved, the appellants filed Criminal Petition No.789 of 2016 before this Court wherein leave was granted vide order dated 09.11.2020, *inter alia*, to examine the entire evidence available on record in the interest of safe administration of criminal justice.

3. The prosecution's case as per FIR, registered on the written application Exh.PA of complainant Muhammad Iftikhar Ahmad (PW.10) is that during those days he was staying in the house of his cousin, namely, Naeem Ahmad Khan, situated in Defence Lahore. On 03.11.2012 Naeem Ahmad Khan left home for Jhang in his motorcar bearing registration No.3706-LEB in connection with his personal affairs but did not return till late night, therefore, he got worried and contacted all the places where Naeem Ahmad Khan might have gone but he could not be traced out. The complainant then contacted his brother Iqbal (PW.11) in Jhang, who along with his friend Shafqat came and on the next morning i.e. 04.11.2012 they all started searching together for Naeem Ahmad Khan and found his motorcar at the bank of the road in the limits of Police Station Balochni near Ibrahim Spinning Mills. On 05.11.2012 FIR was registered in Station Balochani regarding abduction of Naeem Ahmad Khan against unknown culprits/abductors. The complainant and his brother continued search for the abductee. On 08.11.2012 the complainant recorded statement to police stating therein that the abductee had been abducted by a gang of Ghulam Abbas alias Bhalli comprising 18 members, including Asif, Sharafat, Qasim, Chacha Aslam, his wife Latifan Bibi and Nimra Chaudhary. On 09.11.2012, the abductors allegedly contacted the complainant on his cell phone No.0321-8662233 from cell phone No.0304-4968635 and demanded



rupees three crore as ransom for release of the abductee with a threat that if the ransom was not paid to them, the abductee would be done to death. After negotiation, the ransom amount was settled as rupees one crore. On 29.11.2012 at 11.00 PM the complainant reached Samundri road bypass with the ransom amount as directed by the abductors accompanied by PWs Azhar Iqbal and Shafqat and handed over the ransom amount to appellant Saeed Khan who was accompanied by three other abductors. On 30.11.2013 at Fajir Wela the abductee was found near the General Bus Stand Faisalabad by the complainant who then informed the police about his recovery.

4. We have heard the arguments of learned counsel for the appellants and learned DPG for the State and perused the evidence and record with their valuable assistance.

5. It is settled law that the prosecution's story being foundation on which the entire edifice of the case is built, occupied a crucial status, it should, therefore, stand to reason and must be natural, convincing and free from any inherent improbability, as it would neither be safe to believe such story of the prosecution which did not meet the said requirements nor the prosecution's case based on improbable story could sustain conviction of accused.

6. The instant case hinges upon the testimony of complainant Iftikhar Ahmad (PW.10), Naseem Ahmad Khan (PW.8), the alleged abductee, Mst. Aysha Abdul Majeed (PW.9), who allegedly was accompanying the alleged abductee in his motorcar and Iqbal Ahmad (PW.11) as well as Shaukat Ali Inspector (PW.13) and Mehar Ali Inspector (PW.14), the Investigating Officers, respectively.

7. First we are taking the statement of Iftikhar Ahmad complainant (PW.10) for discussion. A look over his report Exh.PA would reveal the he has not furnished any explanation about purpose of his visit and stay in the house of the alleged abductee, situated in Defence Lahore and he has admitted this fact in unequivocal words in his statement in the following words:-

“I did not mention in Exh.PA the purpose of my stay in the house of Naeem”.

The complainant has also not advanced any valid reason and explanation qua his stay in the house of the alleged abductee. In his statement the complainant has dishonestly improved his version by stating that servants of abductee Naeem Ahmad Khan told him that the abductee was also accompanied by his maid servant Mst. Aysha Abdul Majeed (PW.9) when he left home on 03.11.2012. The aforesaid improvement has been admitted by the complainant in his statement by stating that:-

*"I had not stated in Exh.PA that the servants of Naeem had informed me that he had gone to Jhang. I never stated before the police that Naeem had also taken his maid servant Aysha with him on 03.11.2012.*

As per statement of the complainant the abductors remained in contact with him and that he managed the ransom amount 'tawan' of rupees one crore and paid the same on 29.11.2012 at 11.00 PM to the abductors in presence of Azhar Iqbal and Shafqat at Samundri road bypass. According to him, appellant Saeed Khan alighted from the car accompanied by another person while two persons were sitting in the car and due to darkness he could not identify them. He admitted that disappearance of Naeem Ahmad Khan was not reported in relevant Police Station of DHA Lahore. It may be noted from record that complainant had nominated the appellants in his statement recorded to police on 08.11.2012 on the basis of reliable sources, however, he has not disclosed the said sources to police in his statement nor in his statement before the learned Trial Court. He has stated that he had verified the names and parentages of the accused from people of the area but does not remember their names. According to him he never unfolded the reliable sources of his information about the identity of the accused persons before the police. He further stated that he had not seen the nominated accused persons before and did not knew about their features by that time; that he does not knew that Ghulam Abbas and Aslam Bhatti were killed in police encounter on 25.11.2012. It is also very strange to note that Naeem Ahmad Khan went missing on 03.11.2012 but till 05.11.2012 no report qua his



missing was lodged in any Police Station. On 08.11.2012 the complainant nominated the appellants along with co-accused by name for abduction of the alleged abductee but has not disclosed the source on the basis of which he came to know about the names and parentages of accused. It is also very surprising that till 29.11.2012 the abductors allegedly remained on contact with the complainant but the complainant did not bring this fact into the notice of the police so much so he did not inform the police to accompany him on the day of payment of the ransom amount. As per statement of the complainant, he had not pointed out the place to the police where the ransom amount was paid to the abductors. Relevant part of his statement is reproduced below for ready reference:-

*"I did not inform the police about the calling number. I did not know that prior to the payment of Tawan on 29.11.2012 coupled of persons nominated in my application of 08.11.2012 had been killed in police encounter on 25.11.2012. I did not inform the police before going for payment of Tawan on 29.11.2012. I did not take the police for pointation to the place where Tawan was paid. The police had not called me for identification of the two persons who were killed in encounter on 25.11.2012. I did not mention the registration number of the car in which the accused persons had come to take Tawan. I cannot tell about the model and make of the car. Due to darkness I could not know about these aspect of the car.*

According to statement of the complainant he had collected/~~managed~~ the ransom amount from his sisters, Mamozad, Khalazad and other relatives. Relevant part of his statement in this regard is reproduced below:-

*"I had taken money from my coupled of sisters, Mamoozad, Khalazad and other relatives. My sisters paid in all Rs.50 lac to me in the shape of Rs.5000/- currency notes. It was a mix up of old and new. The currency notes were lose. I borrowed from Khalazad Shahid Iqbal Rs.10 Lac and from my cousin Zafar*



*Iqbal Rs.10 Lac and Rs.10 Lac I was keeping with me. I borrowed Rs.20 lac from my Mamozad Zulfiqar. The notes were not in the bundles, prepared by the banks. I did not note down the currency notes number. I did not produce these lenders before the police during investigation.*

The complainant has not furnished detailed description of the currency notes and their denominations which raises questions regarding the authenticity of payment of the ransom claim of the complainant. The complainant's failure to provide specific details about the ransom money, such as the denomination and serial numbers, diminishes the reliability of the entire ransom allegation. The prosecution's failure to identify the place where the ransom money was created creates doubt in the prosecution's case.

8. Azhar Iqbal and Shafqat in whose presence the ransom amount was paid to the abductors have been abandoned. Similarly, the persons from whom the complainant allegedly managed/collected the ransom amount have also neither been cited as prosecution's witnesses nor produced in the witness box. The testimony of witnesses who were present at critical moments of the crime, such as the payment of ransom, was inevitable for corroborating the complainant's narrative. The failure to produce such witnesses casts doubt on the veracity of the complainant's version and raises reasonable suspicion about the nature of the incident. The non-production of the above named material witnesses also amounts to withholding of best available evidence, therefore, an adverse inference within the meaning of Article 129 (g) of the Qanun-e-Shahadat Order, 1984 would be drawn against the prosecution that had these witnesses been produced they would not have supported the prosecution's case. Reliance in this regard is placed on the case of "Mst. Saima Noreen v. The State" (2024 SCMR 1310).

9. Coming to the statement of Naeem Ahmad Khan (PW.8), the alleged abductee. According to him on 03.11.2012 he was going to Jhang along with his nanny (servant) and when he crossed Toll Plaza two cars arrived there, one from front side and another from back. Six



persons deboarded from these card, duly armed, accompanied by two women. The abductors forced him to be seated in their car while his servant was put in the other car. After 6, 7 and 8 hours driver, he was confined in a room wherefrom he was shifted to another place where he was kept confined for five days and then shifted to an abandoned house where he was kept for five days. The abductors hit him with butts of the Kalashnikov or A-K 75 rifle. On the demand of the abductor, he gave cell phone number of his cousin to them whereafter the abductors told him that they would receive rupees three crores as ransom for his release. One of the abductors congratulates him and told him that deal has been done and he would be release pretty soon. Finally, the Abductors brought him to Bus Station where he was dropped As per cross-examination of the abductee, he made statement to the police perhaps within a week of his release which seems very strange as it does not appeal to a prudent mind that an abducted person after his release and payment of such a huge amount would kept mum for a week and will not approach the police. He has not furnished any explanation as to why he kept mum for a week. As per statement of the abductee, the abductors were eight in numbers who abducted him. Contrary, Ayesha Abdul Majeed (PW.9) who allegedly was accompanying the abductee in the motorcar, in her statement has stated that the abductors were four in number which include two men and two women. Yet there is another disturbing aspect of the prosecution's case, as per statement of Mst. Ayesha Abdul Majeed (PW.9) she was released by the abductors on the day of occurrence i.e. 03.11.2012 whereafter she called his mother and she took her to the house. If Ayesha Abdul Majeed was the servant of the alleged abductee then her natural conduct was that to inform the complainant about the occurrence. In such eventuality, the incident should have been reported on the very first day of occurrence i.e. 03.11.2012 in DHA Lahore. In such view of the matter, reporting the incident by the complainant on 05.11.2012 create serious doubts in the prosecution's case. It is also beyond our comprehension as to why places where the alleged abductee was kept confined and the place where he was



released have not been pointed out to the police by the abductee. In this respect relevant parts of the statement of the alleged abductee are referred below:-

*"I did not make pointation before the police of the place where I had been kept during by abduction. I did not disclose to the police the registration numbers of the two cars. ...*

*During my abduction I did not have any contract on phone with my cousin Iftikhar. My cousin Iftikhar did not brief me on my release about the individual roles and the names of each and every accused person. I did not come to know the names and roles of the accused persons on reading the FIR. I did not detail out the features of my abductors in my statement before the learned Special Judicial Magistrate."*

10. According to statement of Shaukat Ali Inspector (PW.13), who has conducted partial investigation in the case the complainant had not disclosed before him about the reliable sources on the basis of which he had disclosed that a gang of eighteen abductors including the appellants is involved in the abduction of the alleged abductee. He had also not inquired from the complainant as to why the police had not been informed before the payment of *Tawan*. According to his testimony, the complainant had not made pointation of the place where he had paid *Tawan*/ransom to the abductors. He neither visited the said place nor prepared the site plan thereof. He also did not visit the place to get verified the payment of *Tawan* and the places where the alleged abductee was kept in illegal confinement. The absence of site plans detailing the locations where the abductee was allegedly confined is a critical flaw in the investigation of this case. The lack of such evidence weakens the prosecution's ability to substantiate the claim of abduction and detention. Lastly, the prosecution's failure to prepare a detailed account of the location/place where the ransom money was paid further undermines the case.

11. As per statement of Shaukat Ali Inspection, Mst. Nimra Chaudhary accused was arrested a day prior to the alleged payment of



*Tawan* and rest of the accused after payment of the ransom. As per statement of Mehar Ali Inspector (PW.14) on 25.11.2012 the nominated accused persons namely Ghulam Abbas Bhalli and Chacha Aslam were killed in police encounter and to this effect FIR No.1312/2011 was registered in Police Station Sadar Faisalabad; that Nimra Chaudhary accused is the widow of Ghulam Abbas Bhalli. In such eventuality, charging of the appellants by the complainant along with dead co-accused shows his ignorance about the actual culprits. He further stated that since 09.11.2012 till 29.11.2012 the complainant and PWs did not appear before him; that he did not try to get placed both cell numbers of the complainant and the abductee and did not take CDRs data of the mobiles numbers of the complainant and the abductors. He further stated that he did not try to search out the abductee from the locations through CDR.

12. On reappraisal of the evidence available on record, we are firm in our view to hold that case against the appellants lacks sufficient corroborative evidence to prove the allegations of abduction and ransom beyond a reasonable doubt. The prosecution's case seems to be a cock and bull story having nothing with reality. In this view of the matter, we do not feel it necessary to dilate upon the circumstantial pieces of evidence in the shape of recovery of cash amount shown from possession of each appellant, which even otherwise, has not been proved to be the part of the ransom amount allegedly paid by the complainant. Similarly, the evidence of the prosecution with regard to identification parade of the appellants is also highly doubtful. It is an axiomatic principle of law that the benefit of doubt is always extended in favour of the accused. The case of the prosecution if found to be doubtful then every doubt even the slightest is to be resolved in favour of the accused. In this regard reliance may be placed on case titled, "Muhammad Masha vs the State" (2018 SCMR 772) and case titled, "Abdul Jabbar vs the State and another" (2019 SCMR 129).

13. For the reasons stated above, we allow this appeal, set-aside the conviction and sentences of the appellants recorded through the impugned judgments and acquit them from the charges leveled against them in the instant case. They be set at liberty forthwith, if not confined in any other case.

Islamabad  
04.03.2025  
Approved for reporting.  
M.Siraj Afridi PS