

**ORDER OF THE COURT**

By majority of two to one (Syed Hasan Azhar Rizvi, J. dissenting),  
the instant jail petition is converted into appeal and is partly allowed.

Islamabad  
21 March 2024

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

**PRESENT:**

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

**J.P.No.193/2016**

[Against the judgment dated 04.02.2016 passed by the Lahore High Court, Rawalpindi Bench in CSR No.5-T-2011, CrL.As. No.182 & 186/2011]

***Rizwan Rasheed & another***

*...Petitioner(s)*

***Versus***

***The State***

*...Respondent(s)*

For the Petitioner(s)	: Mr. Basharatullah Khan, ASC Syed Rifaqat Hussain Shah, AOR
For the State	: Mr. Irfan Zia, DPG Punjab
Date of Hearing	: 21.03.2024

**JUDGMENT**

**Jamal Khan Mandokhail, J.-** Facts in brief as alleged by Qazi Maqsood Azeemi (“complainant”) in the FIR are that his son Qazi Abdul Qadir went to his academy for attending classes on 16.09.2008, but he did not turn up, despite his best efforts to locate him. On 17.09.2008, the complainant received a call at 12.38 am from a cell number 03028510175 of an unknown person disclosing that the complainant’s son was in his custody, and demanded Rs. 50,00,000/- for the release of the abductee. Subsequently, the complainant received another call from cell No. 03035261341 with the warning that if the demanded amount is not paid, the abductee would be killed and cut into pieces and

would be thrown in the canal. The complainant started negotiations with the abductors, but failed. He then reported the matter to police, as a result whereof, an FIR No. 618 dated 17.09.2008 for offence under section 365-A of the Pakistan Penal Code ("**PPC**") was registered at Police Station Airport Rawalpindi, against unknown persons. Subsequently, the petitioners were arrested, who led the police to the recovery of dead body. Upon completion of investigation, sections 201, 302, 34 PPC and section 7 of the Anti Terrorism Act, 1997 ("**ATA of 1997**") were also added in the report prepared under section 173 of the Cr.P.C. and submitted the same before the Special Judge, Anti Terrorism Court No.1, Rawalpindi (**ATC**).

2. After conclusion of trial, the petitioners and their co-accused Imran Rasheed (since dead) were convicted by the ATC under section 7(e)/21(i) ATA of 1997 read with section 365-A/34 PPC and section 7(a)/21(i) ATA of 1997 read with section 302(b)/34 PPC and sentenced them to death under each penal head. They were also convicted under section 201/34 PPC and sentenced to suffer 07 years R.I each. On an appeal, a Division Bench of the Lahore High Court, Rawalpindi Bench maintained the conviction of the appellants awarded by the ATC, however, their sentences were converted from death to imprisonment for life on each count, with benefit of section 382-B, Cr.P.C. They were acquitted of the charge under section 201/34 PPC. The capital sentence reference was accordingly answered in the negative, hence, this petition for leave to appeal.

3. The Superintendent, Central Jail, Rawalpindi vide report dated 09.10.2021 submitted that one of the petitioners Imran Rasheed has passed away on 27.03.2021 in jail, therefore, by order



of this Court dated 12.01.2023, the jail petition to his extent was dismissed as having stood abated.

4. During the pendency of this petition, the legal heirs of the deceased filed a Crl. Misc. Application No. 1661 of 2021 and stated that they have pardoned the petitioners and do not want to proceed against them any further. Out of the offences, only section 302/34 PPC is compoundable, therefore, a report from the Sessions Judge was called, who confirmed the factum of the compromise between the parties as genuine.

5. The learned counsel for the petitioners stated that the petitioners have been convicted under the provisions of the ATA 1997 and PPC both for their act of abduction for ransom, followed by murder of the abductee. He submitted that the offence of abduction or kidnapping for ransom has been included in the Third Schedule to the ATA 1997 for the purpose of speedy trial to be conducted by ATC. He contended that if the action of an accused is designed for terrorism, he has to be charged and tried under the relevant provisions of the ATA 1997. To the contrary, if kidnapping or abduction is only for ransom without a design, purpose or intent of terrorism, it is triable by the ATC, only for the purpose of speedy trial, however, the accused shall be charged and tried under the provisions of PPC. Learned counsel stated that since there is no element of terrorism in this case, the petitioners could not have been convicted under the provisions of the ATA 1997, therefore, the convictions and sentences awarded to the petitioners under the provisions of the ATA 1997 are without jurisdiction. He added that no case under section 365-A PPC is made out on the basis of the facts and circumstances, as the prosecution has failed to prove the demand or payment of ransom, therefore, at best, the case of the prosecution would fall under

section 365 and 302/34 PPC. The learned counsel in the end stated that the petitioners have been pardoned by the legal heirs of the deceased under section 302 PPC, and in this behalf, an application for acquittal of the petitioners has been filed by the legal heirs. The Deputy Prosecutor General Punjab opposed the contentions of the learned counsel for the petitioners and defended the impugned judgment.

6. Arguments heard and have perused the record. It is important to mention here that the offence of kidnapping or abduction for ransom was inserted into PPC by Act No. 3 of 1990 and was made triable by the Court of Sessions. Subsequently, keeping in view its heinousness, it was added as Entry No. 4 in the Third Schedule to the ATA 1997 by Act II of 2005, which is reproduced herein below:

**THE THIRD SCHEDULE**

1. -
2. -
3. -
4. *Without prejudice to the generality of the above paragraphs, the Antiterrorism Court to the exclusion of any other Court shall try the offences relating to the following, namely:--*
  - (i) *Abduction or kidnapping for ransom;*
  - (ii) -
  - (iii) -
  - (iv) -
  - (v) -

The intent of the Legislature by including the offence of abduction or kidnapping for ransom in the Third Schedule to the



ATA 1997 was on account of its heinousness only, for the purpose of speedy trial by the ATC, to the exclusion of any other court. By now it is clear that in the circumstances, where an act of abduction or kidnapping for ransom is designed with a purpose or intent of terrorism, the action shall fall within the meaning of subsection (1) and is an offence under subsection (2)(e) of section 6 of the ATA 1997, triable by the ATC and punishable under section 7(1)(a) of the ATA 1997. Where there is no element of a design, purpose or intent of terrorism in the act of abduction or kidnapping for ransom, irrespective of gravity, heinousness or shocking nature of the offence, committed in pursuance of personal interest, it shall not fall within the meaning of subsection (1) of section 6 of ATA 1997, rather, would be an offence under section 365-A PPC. However, in view of the fact that this offence has been included in the Third Schedule to the ATA 1997, therefore, it is triable only by the ATC, to the exclusion of any other court, merely for the purpose of speedy trial. Under such circumstances, the accused has to be charged and tried only under section 365-A PPC. This Court in Ghulam Hussain<sup>1</sup>, has held so in Paragraph No. 13 of the judgment, relevant portion whereof is reproduced herein below:

*“...For the purpose of further clarity on this issue it is explained for the benefit of all concerned that the cases of the offences specified in entry No. 4 of the Third Schedule to the Anti-Terrorism Act, 1997 are cases of those heinous offences which do not per se constitute the offence of terrorism but such cases are to be tried by an Anti-Terrorism Court because of their inclusion in the Third Schedule. It is also clarified that in such cases of heinous offences mentioned in entry No. 4 of the said Schedule an Anti-Terrorism Court can pass a punishment for the said offence and not for committing*

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<sup>1</sup> PLD 2020 SC 61



the offence of terrorism. It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, P.P.C. is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti Terrorism Act, 1997. Abduction or kidnapping for ransom is a heinous offence but the scheme of the Anti-Terrorism Act, 1997 shows that an ordinary case of abduction or kidnapping for ransom under section 365-A, P.P.C. is merely triable by an Anti-Terrorism Court if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997 then such offence amounts to terrorism attracting section 7(e) of that Act. In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, P.P.C. whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, P.P.C. as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997...."  
**(Emphasis supplied)**

7. In the case in hand, the complainant in the FIR and in his statement recorded on Oath before the Trial Court, has simply stated that his son was abducted by unknown persons, who contacted him and had demanded ransom. Neither the complainant nor the prosecution witnesses described the act of the petitioners as an act of terrorism. Even there is nothing on the record, connecting the petitioners in any manner with terrorist activities or having any link or nexus with any terrorist organization in order to constitute the offence of terrorism. Moreover, at any stage of the proceedings, the prosecution did not allege that the petitioners abducted the abductee with a design, purpose or intent of terrorism. Without there being *mens rea* of the petitioners to do an act of terrorism, their action of abduction for ransom *simpliciter* falls within the ambit of section 365-A PPC, instead of section 6(2)(e) of the ATA 1997. The *fora* below have erred in law by mis-appreciating the evidence, hence have wrongly considered the action of the petitioners as an act of terrorism.

Mostly the courts believe that every offence triable by ATA 1997 shall fall within the meaning of section 6(1) of the ATA 1997, which is a wrong interpretation of law. The cases mentioned in Entry No. 4 of the Third Schedule to the ATA 1997 are triable by the ATC because of its heinousness, but cannot be considered as an act of terrorism, unless the ingredients of section 6(1) of the ATA 1997 are fulfilled.

8. Coming to the merits of the case, we have observed that the prosecution has produced confidence inspiring evidence to bring home the guilt of the petitioners. The complainant (PW6) reiterated the contents of the FIR. According to PW4 and PW5, they lastly saw the deceased son of the complainant in the company of the petitioners. The statements of last seen witnesses, recovery of the taxi car used for abduction, recovery of the dead body on the pointation of the petitioners and the medical evidence adduced by PW7 lend support to the prosecution case. The witnesses were thoroughly cross examined by the defence counsel, but they remained firm on all material aspects of the case. Under such circumstances, the prosecution has successfully proved its case against the petitioners to the extent of offence under sections 365-A and 302(b) PPC. Since the prosecution has failed to establish the *mens rea* of the petitioners for committing the act of terrorism, the provisions of the ATA 1997 do not attract.


Thus, in view of above, the jail petition is converted into appeal and is partly allowed. The impugned judgment dated 04.02.2016 passed by the High Court is maintained with modification as under:

- (i) The convictions and sentences awarded to the appellants under sections 7(a)/21(i) and 7(e)/21(i) of



the ATA 1997 through the impugned judgment are set aside. The appellants are acquitted of the charge under the said penal heads.

- (ii) The Crl. Misc. Application No. 1661 of 2021 filed by the legal heirs of deceased is allowed and the compromise is accepted. Consequently, the convictions and sentences awarded to the appellants under section 302(b)/34 PPC are set aside. They are acquitted of the charge under the said penal head as well.
- (iii) The conviction and sentence for life awarded to the appellants under section 365-A PPC shall remain intact, with benefit of section 382-B, Cr.P.C.

*I have appended my  
separate note*  


Islamabad

21 March 2024

K. Anees

Approved for Reporting

## **JUDGMENT**

**SYED HASAN AZHAR RIZVI:** I have had the privilege of going through the majority judgment authored by my learned brother Jamal Khan Mandokhail, J. I with due respect, find myself in disagreement with the same for the reasons herein below.

2. This jail petition was filed by three convicts namely Imran Rasheed, Rasheed Rizwan, Ijaz Ahmed against the judgment dated 04.02.2016 passed by Lahore High Court in Crl.Appeal Nos.182 of 2011 and 186 of 2011 whereby the death sentence awarded to the convicts by the trial court was altered to rigorous imprisonment for life for the offences under section 7(e)/21(i) Anti-Terrorism Act, 1997 (**ATA**) read with section 302(b) and 365-A/34 PPC. Conviction under section 201 PPC was set aside. The compensation imposed upon them and imprisonments in default thereof were also maintained while extending the benefit under Section 382-B Cr.P.C.

3. According to the report dated 09.10.2021 submitted by the Superintendent, Central Jail, Rawalpindi, the petitioner namely Imran Rasheed S/O Abdul Rasheed had died on 27.03.2021. Therefore, this petition having abated to his extent was dismissed by this court vide order dated 12.01.2023.

4. A compromise application (Cr.M.A.No. 1661 of 2024) was filed by the petitioners stating therein that the legal heirs of the deceased have forgiven the petitioners in the name of Almighty Allah. However, it was noticed that besides Section 302(b) PPC, petitioners were also convicted and sentenced under Section 365-A PPC read with section 7 of ATA and these offences are not compoundable. Therefore, assistance of learned counsel for the

parties was sought as to whether the case of petitioners is made out under section 365-A PPC read with section 7 of ATA.

5. The majority has partly allowed this petition in following terms:

“Convictions and sentences awarded to petitioners under section 7(a)/21(i) and 7(e)/21(i) of ATA through impugned judgment are set aside. Crl. Misc. Application No.1661 of 2021 filed by the legal heirs of deceased is allowed and the compromise is accepted. Consequently, convictions and sentences awarded under section 302(b)/34 are set aside. The conviction and sentence for life awarded to the petitioners under section 365-A PPC shall remain intact with benefit of section 382-B, Cr.P.C.”

I, agree with the majority judgment to the extent of section 302(b)/34 and section 365-A PPC however I disagree to the extent of non-applicability of provisions of ATA.

6. Before discussing grounds of disagreement, I deem it appropriate to reiterate important facts. On 17.09.2008, Qazi Maqsood Ahmed presented an application at Police Station Airport, Rawalpindi stating therein that his son namely Qazi Abdul Qadir (deceased), student of FSC Part II did not reach home on 16.09.2008 after attending tuition academy at 06:30 PM. On 17.09.2008 at 12:38 AM he received a call from an unknown person from telephone number 0302-8510175 who stated that his son was in their custody and demanded Rs. 50 lacs as ransom money and threatened that in case of failure, his son would be killed. Again on 17.09.2008 at 06:30 AM another call from a different mobile number was received with the threat that in case of non-receipt of Rs. 50 lacs by tonight, the pieces of dead body of Qazi Abdul Qadir (deceased) would be thrown in the canal. Since,



he could not arrange the ransom money, therefore, he lodged a FIR dated 17.09.2008 at 02:15 PM.

During investigation, police arrested present three petitioners on the basis of statements of PWs under section 161 Cr.P.C and in pursuance of their disclosure and pointation, the dead body of deceased as well as taxi used by them in this occurrence was recovered.

7. Record reveals that prosecution produced as many as 11 witnesses. Muhammad Ansar Shoaib (PW-4) and Qazi Humayun Kabir (PW-5) are eye-witnesses of abduction of the victim; these PWs stated that on 16.09.2008 at about 06:30 PM the accused took away the deceased on a yellow taxi; they also deposed that Ejaz Ahmed accused was sitting on rear seat; they stated that accused Imran alighted from the rear seat of the taxi and talked to Qazi Abdul Qadir deceased, and got him boarded in the taxi and this taxi was later on recovered from the possession of the accused in consequence of their disclosure and pointation.

8. Qua section 365-A PPC, the majority judgment has maintained the sentence and I agree to that, however, I deem it appropriate to discuss it further. For ease of reference, same is reproduced below:-

**365-A.Kidnapping or abducting for extorting property, valuable security, etc.:** Whoever kidnaps or abducts any person for the purpose of extorting from the person kidnapped or abducted, or from any person interested in the person kidnapped or abducted any property, whether movable or immovable, or valuable security, or to compel any person to comply with any other demand, whether in cash or otherwise, for obtaining release of the person kidnapped or abducted, shall be punished with death or imprisonment for life and shall also be liable to forfeiture of property.

Bare perusal of the afore-referred provision shows that the essential ingredients to prove the offence are:

a. There must be a kidnapping or abduction.

- b. Such act must be committed to extort from the person kidnapped or any person interested in the abductee movable or immovable property, valuable security or to comply with any other demand.
- c. Extortion must be demanded for obtaining the release of the person kidnapped or abducted.

In this regard, reliance can be placed on the case of **Muhammad Riaz and others v. Bilqiaz Khan and Others (2012 SCMR 721)** supra, wherein this Court has held that:

“11. A close reading of the afore-referred provision would show that essential ingredients to prove the offence are twofold: (i) the act of abduction, (ii) “for the purpose of extorting from the person Kidnapped or abducted, or from any person interested in the person Kidnapped or abducted,...or to compel any person to comply with any other demand, whether in cash or otherwise, for obtaining release of the person Kidnapped or abducted”.

9. In **Muhammad Amjad v. State (PLD 2003 SC 704)**, ambit and scope of this provision came up for consideration and the Court observed as follows:

“38. Section 365-A P.P.C. deals with kidnapping or abduction for extorting property, valuable securities etc. while committing above crime various acts are done i.e. capturing the victim and then detaining him under captivity. Normally thereafter, demand is made for ransom. More often than not these acts are done by more than one person, but in this case everything was done by the appellant himself. To constitute an offence under this section it is not necessary that the money must have passed on to the culprit, nor it is necessary that the victim must have been released. Abduction/kidnapping may be by force or by deceitful means. The evidence led proved beyond reasonable doubt that the appellants had abducted the two abductees for the purpose of extorting ransom and had compelled the complainant to comply with the demand for cash/ransom for releasing the abductees.”

In view of above-mentioned precedents, provisions of section 365-A PPC stand attracted in the instant case.

10. Question whether the prosecution has produced sufficient evidence to justify the conviction of the accused/convicts under section 365-A PPC, it reveals from the record that the FIR was lodged by Qazi Maqsood Ahmed (PW.6) and he fully supported the prosecution's version. He was cross-examined at an adequate length but there was no discrepancy in his evidence. The relevant portion from his cross-examination is reproduced below:



"My son was not having any specific transport for going to college and back to home. He used to avail public transport. From a distance of 2 furlongs from my residence, transport is available directly for proceeding to Scheme III, Rawalpindi. I received 1<sup>st</sup> call on the night between 16 and 17 September, 08, at about 12:38 AM. At that time, I was searching my son being outside the house."

In order to prove charge of abduction prosecution has produced Muhammad Ansar Sohaib (PW-4) and Qazi Humayun Kabir (PW-5). Muhammad Ansar Shoaib (PW-4) provided his ocular account and also explained the reason for his presence at the place of occurrence as follows:-

"On 16.09.2008, I alongwith Qazi Humayun was present at Sir Syed Chowk Rawalpindi. At about 06:30 PM we saw a yellow black taxi, on driving seat of which Ejaz Ahmed was seated. Meanwhile Abdul Qadir deceased alongwith a bag on his shoulder came there. Imran accused alighted from the rear seat of the taxi and talked with Abdul Qadir deceased and then Abdul Qadir also boarded said taxi alongwith Imran accused wherein the accused Rizwan Rashid was also sitting on rear seat. ... we were under impression that Abdul Qadir had gone with friends in said taxi and for this reason we did not pay any heed. We subsequently went to our own homes. ... "

The statement of PW-5 Qazi Hamayun Kabir who is eye-witness of abduction is reproduced as under:-

"On 16.09.2008, at about 6:30 PM, I came at Sir Syed Chowk Rawalpindi where my friend Ansar Sohaib was also present. We saw a yellow black taxi at Sir Syed Chowk. The front of which was towards Railway crossing of Dhoke Chiragh Din. On the driving seat of said taxi the accused Ejaz Ahmed was sitting. Qazi Abdul Qadir holding a bag of books on his shoulder came there. From the said taxi, Imran Rashid, the accused now present in court, alighted from rear seat from left door and talked to Abdul Qadir. The said accused Imran was a friend of Abdul Qadir. Qadir boarded said taxi within our sight. Rizwan was also sitting on rear seat of said taxi. The said rizwan is now present in the court as an accused. The said taxi proceeded towards Dhoke Chiragh Din. We also went to our homes. On the next day I came to know through my friend Qazi Masood complainant that his son namely Abdul Qadir had not returned to his home since yesterday evening. I told Qazi Maqsood that he alongwith Ansar Sohail PW saw Abdul Qadir boarding a taxi with accused persons."

Both P.Ws remained consistent in their testimonies, despite, a rigorous test of cross examination



11. In the case of **Advocate General Sindh, Karachi v. Farman Hussain and others (PLD 1995 SC 1)**, it was observed as under:-

"It is a matter of public knowledge that in Sindh on account of kidnapping for ransom, commission of dacoities and other offences, the people are feeling unsecured. The learned trial court has dilated upon these aspects in detail. I am inclined to subscribe to the view found favour with it. The approach of the Court in matters like the case in hand should be dynamic and if the Court is satisfied that the offence has been committed in the manner in which it has been alleged by the prosecution the technicalities should be overlooked without causing any miscarriage of justice."

In another case of **Ghulam Hussain Soomro v. The State (PLD 2007 SC 71)** it was ruled by this court that:-

"that the crimes like kidnapping for ransom have become rampant in our society, which is an unfortunate state of affairs and can only be deprecated. Such kind of criminal acts must be dealt with iron hands and event if there are minor discrepancies and deviations in the evidence or shortfalls on the part of investigating agency, the Courts should always be dynamic and pragmatic in approaching the true facts of the case and drawing correct and rational inferences and conclusions arising out of the facts and circumstances of each case. We may not be misunderstood to mean that an innocent person wrongly roped by prosecution or falsely involved by an unscrupulous investigating officers should be unreasonably dealt with or made escape goat but he Courts must maintain balance while arriving at the truth or falsehood of the matter by sifting the grain from the chaff. This may be treated as a rule of caution and circumspection."

In the light of these guiding principles, the courts below have rightly convicted the accused persons in the instant case under section 365-A PPC.

12. Now question arises as to whether provisions of ATA are attracted or not. Firstly, I deem it appropriate to reproduce Section 7(e) as below:-

"7(e). the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life".

The offence of kidnapping for ransom already stands proved against the accused. Now, that issue will be adjudged in the light of ATA.

13. This Court in the case of **Sh. Muhammad Amjad vs The State (PLD 2003 SC 704)** ruled as follows:

“Condition precedent for applicability of ATA is that the offences mentioned in the Schedule should have nexus with the objects mentioned in sections 6, 7 and 8 of the ATA. If sense of fear, insecurity in the people at large or any section of the people or disturbance of harmony amongst different sections of the people is created, above quoted subsection will be attracted. Even if by act of terrorism actual terror is not caused; yet, above quoted subsection (b) will be applicable if it was likely to do any harm contemplated in said subsection. It is the cumulative effect of all the f attending circumstances which provide tangible guidelines to determine the applicability or otherwise of said subsection.”

(emphasis added)

In the present case, Qazi Abdul Qadir, student of FSC was firstly abducted and then brutally murdered and dead body was thrown away which caused terror amongst all students who leave their homes in the early morning to get an education and return home by afternoon. Such offences should be dealt with iron hands by the state.

14. This court in the **Shah Muhammad Amjad case** (supra) maintained the punishment under the provisions of ATA where a young Barrister was abducted for ransom and was killed.

15. Deterrence is a factor to be taken into consideration while awarding the sentence specially sentence of death and in this behalf reference can be made to the case of **Hamid Mehmood and another v. State (2013 SCMR 772)**. Relevant portion wherefrom is reproduced as follows:-

"25. In the facts and circumstances of the case, the considerations pertaining to quantum of sentence, have been examined. The reasons for the award of the death penalty far out weight the considerations for the award of lesser sentence. The tender age of the minor, the brutal



and heinous nature of the crime and premeditation persuades us to agree with the sentence awarded by the learned trial Court as well as the learned High Court. The deterrent aspect of the sentence cannot be lost sight of either as it was a crime of kidnapping for ransom of minor, followed by murder. In such an eventuality, the normal sentence of death should be awarded and the Court should neither hesitate nor search for laboured pretexts to award a lesser sentence, as has been held by this Court, in the case, reported as Muhammad Sharif (Supra)."

16. This court in **Ghulam Hussain Case (PLD 2020 SC 61)** has comprehensively discussed this issue of applicability of ATA, relevant portion wherefrom is reproduced hereinbelow:-

"13. ... It is also clarified that in such cases of heinous offences mentioned in entry No. 4 of the said Schedule an Anti-Terrorism Court can pass a punishment for the said offence and not for committing the offence of terrorism. It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, PPC is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-Terrorism Act, 1997. Abduction or kidnapping for ransom is a heinous offence but the scheme of the Anti-Terrorism Act, 1997 shows that an ordinary case of abduction or kidnapping for ransom under section 365-A, PPC is merely triable by an Anti-Terrorism Court but if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997 then such offence amounts to terrorism attracting section 7(e) of that Act. In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, PPC whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, PPC as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997...."

In light of this, it can be concluded that although ordinary cases of abduction for ransom do not fall within ambit of ATA, however, present case is not an ordinary one. This is because, firstly a student was abducted in a broad day light, then he was brutally murdered and his dead body was thrown away.

17. The abduction and brutal murder of a student is indeed a horrific and tragic event. Such acts not only cause immense sorrow to the victim's family and loved ones but also instill fear and insecurity among the public. Given the gravity of the situation and the impact it has on society, provisions of the



ATA are indeed attracted. The ATA is designed to address and combat acts of terrorism, which include actions that cause terror, fear, and insecurity among the population. Moreover, applying the ATA sends a strong message that such acts will not be tolerated, and those responsible will be held accountable to the fullest extent of the law. It also reassures the public that authorities are taking decisive action to protect their safety and security.

18. All the prosecution witnesses have successfully passed the test of lengthy cross-examination by the defense but no material discrepancies have been brought on record. There is nothing on record that may suggest false implication of petitioners. It was a heinous murder of an innocent boy who was a student of FSC Part II. The presence of eyewitnesses at the place of occurrence was also established on the record. The evidence produced by the prosecution is trustworthy and reliable. The prosecution has succeeded to prove its case against accused persons; moreover P.Ws had no motive to falsely implicate the petitioners in this heinous crime.

19. In view of above discussion, I observe that prosecution has produced sufficient incriminating material against the petitioners. High Court in the Impugned judgment has duly considered all aspects of the case, both legal and factual. The impugned judgment is well reasoned and needs no interference.

20. Consequently, for the reasons mentioned above, this petition being devoid of merit is hereby dismissed.

**(Syed Hasan Azhar Rizvi)**  
**JUDGE**