

# IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

## PRESENT:

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

## Criminal Appeal No.158-L of 2017

(On appeal from the judgment dated 09.04.2015  
passed by the Lahore High Court, Lahore in  
Criminal Appeal No.81-J of 2013 and C.S.R.  
No.5-T of 2013).

***Muhammad Azad alias Javaid alias Jodi***

...Appellant(s)

## VERSUS

***The State, etc.***

...Respondent(s)

For the Appellant(s)	: Ms. Nighat Saeed Mughal, ASC
Complainant(s)	: In person (Hidayat Ali)
For the State	: Ch. Mustafa, Deputy Prosecutor General, Punjab
Date of Hearing	: 22.05.2019

## JUDGMENT

**Qazi Muhammad Amin Ahmed, J.-** Muhammad Azad *alias* Javaid *alias* Jodi s/o Niamat Ali was tried by an Anti Terrorism Court for committing *qatal-e-Amd* of Ali Sher, 7/8; the child was kidnapped for ransom; upon conclusion of trial, he was convicted on four counts and sentenced to death on each *vide* judgment dated 6.3.2013; his appeal failed in the High Court with Capital Sentence Reference, returned in the affirmative *vide* judgment dated 9.4.2015 *vires* whereof are being impugned through leave of the Court.

2. On the fateful day, the child left home with his sister Nabeela to fetch eateries; the girl returned, however he vanished and could not be located despite research; at 6:15 p.m. same day, his father, Hidayat Ali, PW received a call on his cell phone bearing No.0341-4975035, it originated from 0347-4106895; the caller

demanded ransom of Rs.200,000/- by 9/10 a.m. following day at a designated place; the complainant along with other PWs arranged the amount and thumb marked some of the bills; they came across the appellant wearing helmet on a motorbike, identified by the witnesses as the appellant, one of the relatives; as per his command, they dropped the amount in a nearby cane field; the witnesses promptly obliged, however, the child did not return. It is in this backdrop that the incident was reported on 29.9.2012 at 12.20 p.m. Muhammad Aslam, Inspector, PW-15 arrested the appellant alongside two cell phone handsets; pursuant to disclosure, the appellant led the investigating officer to the child, lying dead inside sugarcane crop; asphyxia was cited as cause of death. During custody, the appellant led to the recovery of last worn items as well as a sum of Rs.100,000/- including bills with thumb impressions.

3. Statements of Hadayat Ali and his brother Walayat Ali constitute prosecution's mainstay. In a rural neighborhood, they are distantly related with the appellant and despite an apparent camouflage they were able to identify him beyond doubt, when he came across them in the wake of child's disappearance and it was soon thereafter that they informed the police as the child did not return as promised by the appellant; events, though few, however taking place in quick succession, inexorably, revolve around the appellant's culpability; most important being disclosure within the contemplation of Article 40 of the Qanun-e-Shahadat Order, 1984 pursuant where to he led to the discovery the corpse on the basis of his exclusive knowledge; given the briefest timeframe, to the exclusion of any other hypothesis, it can be safely inferred, without being conjectural, that he alone knew what befell upon the child and where he was dumped. Cell phone data, generated through automated system, operating beyond human interference confirmed conversation between the appellant and the complainant. There was hardly any time or occasion for the family to concoct or cook up a story on suspicions or consultations. Investigative conclusions point towards the appellant as well. Complainant and his brother, with no axe to grind, cross examined at length, left the witness box unscathed; recoveries have been proved by the witnesses, equally steadfast. There is no earthly reason to suspect appellant's identity or entertain theory

of substitution. Appellant's guilt is proved to the hilt on the basis of chain of circumstances though few in number, nonetheless, well synchronized with one another, intrinsically confidence inspiring; he has rightly been convicted; given the brutality, inflicted upon the hapless child, last agnate of the family before his death, wage settled by the learned trial Court and upheld by the High Court has not been found by us as unconscionable. Criminal Appeal 158-L/2017 fails. *Appeal* dismissed.

JUDGE

JUDGE

JUDGE

Lahore, the  
22<sup>nd</sup> of May, 2019  
Ghulam Raza/\*