

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

33/19

**PRESENT:** MR. JUSTICE MANZOOR AHMAD MALIK  
MR. JUSTICE SARDAR TARIQ MASOOD

AFR

**Jail Petition No. 217 of 2017**  
(Against the judgment of the Lahore High Court, Multan Bench Multan dated 27.02.2017 passed in CrI. Appeal No. 455 of 2013)

Muhammad Siddique

...Petitioner(s)

**VERSUS**

The State etc

...Respondent(s)

For the Petitioner(s): Ch. Abdul Ghaffar Bhutto, ASC

For the State: Mirza Abid Majeed, DPG

Date of Hearing: 27.03.2019

...

**JUDGMENT**

**Manzoor Ahmad Malik, J.-**

After a regular trial, petitioner Muhammad Siddique was convicted by the learned Additional Sessions Judge, Dunyapur, vide judgment dated 21.10.2013, under section 365-B PPC and sentenced to imprisonment for life, with fine of Rs.10,000/-, in default whereof to undergo SI for six months. He was further convicted under section 376 PPC and sentenced to 10 years RI with fine of Rs.10,000/-, in default whereof to undergo SI for six months. Benefit of section 382-B, Code of Criminal Procedure was extended to him. All the sentences were ordered to run concurrently. The learned trial court acquitted the petitioner under section 380 and 411, PPC. The criminal appeal

filed by the petitioner was dismissed by the learned High Court through the impugned judgment. Hence, the instant jail petition.

2. After hearing the learned counsel for the parties at length and perusal of available record, it has been observed by us that occurrence in this case, as per prosecution, took place on 06.03.2010, whereas the matter was reported to police by the complainant Muhammad Siddique on 13.03.2010 at 12.00 (noon). If the contents of the FIR are accepted as correct, it is hard to believe that in an incident where a young married woman was abducted from a house by three men and two women on gunpoint, the complainant side waited for about 07 days to report the matter to police. There is no explanation in the FIR for such inordinate delay. In his examination in chief, complainant Muhammad Siddique (PW2) made an evasive explanation that after the occurrence, he along with respectables of the locality contacted the elders of the petitioner for recovery of his daughter and when they refused, he reported the matter to police. He did not give the name of any respectable of the area in his statement during trial. The other two witnesses Muhammad Riaz (PW3) and abductee herself Mst. Nasreen Siddique (PW1) also did not explain delay in reporting the matter to police. Admittedly, complainant Muhammad Siddique (PW2) is not an eyewitness of the occurrence and before the trial court, he claimed that he was informed by Muhammad Riaz (PW3) and Ahmad Yar (given up PW) about the occurrence on phone. This fact is not mentioned by him in the FIR.



3. Muhammad Riaz, who is brother of Mst. Nasreen Siddique and son of complainant, appeared as PW2. He claimed to have witnessed the occurrence. In his statement during trial, he stated that petitioner was armed with a revolver and also made fire towards them. No such fact was disclosed by Mst. Nasreen Siddique (PW1) before the trial Court. There is no recovery of revolver from the petitioner nor was any empty secured by the police from the spot during investigation. In his cross examination, Muhammad Siddique (PW2) stated that after the occurrence Waheed, husband of Mst. Nasreen Siddique, got angry and they (complainant side) demanded divorce from him, who divorced her. Muhammad Riaz (PW3) stated that they had not demanded divorce for their sister from Waheed. The defense also brought on record a number of contradictions in the statement of Muhammad Riaz (PW3) as against his statement recorded by police under section 161, Code of Criminal Procedure.

4. In the matrix of the case, Mst. Nasreen Siddique (PW1) is the star witness. In her examination in chief, she alleged that while abducting her, the petitioner and his co-accused took away with them her purse containing her cheque book, gold locket and four gold bangles. The same allegation was levelled by the complainant Muhammad Siddique (PW2) and Muhammad Riaz (PW3). However, the learned trial court, as alluded to in Para 1 above, acquitted the petitioner under sections 380 and 411 PPC. No appeal was filed by the complainant or the State any further.

5. It is the case of Mst. Nasreen Siddique (PW1) that she was subjected to rape by the petitioner and his co-accused Akbar and

Abdul Rehman after her abduction. She claimed that she was intoxicated by the accused and was confined for 17 days. In her medical examination, no trace of intoxication was found. The medical examination of Mst. Nasreen Siddique (PW1) was conducted on 04.07.2010 i.e. after about four months of the alleged occurrence. Though the doctor stated that the vaginal swabs were stained with semen but the fact remains that according to complainant Muhammad Siddique (PW2), after her recovery, Mst. Nasreen Siddique was divorced by her husband Muhammad Waheed after two months of the occurrence; that afterwards she solemnized marriage with one Latif and she was living with him. In these circumstances, there is little significance of the report of chemical examiner that the vaginal swabs were stained with semen particularly when, admittedly, no DNA test of the abductee and the petitioner was conducted. The investigating officer Muhammad Irshad, SI (PW6) stated in his cross examination that despite repeated summons, the victim Mst. Nasreen Siddique did not come for DNA test. The doctor who medically examined Mst. Nasreen Siddique did not find any mark of violence on her body. In her cross examination, Mst. Nasreen Siddique (PW1) stated that she had not filed any suit in the family court against her husband Waheed and that Waheed is her husband. She further denied the suggestion that she did not accept Waheed as her husband. She further stated that she is residing with her husband Waheed as wife and that she is wife of said Waheed. Her stance is in utter contradiction with the statements of her father (complainant) and her brother (PW3), who maintained before the trial



court that Waheed after the occurrence had divorced Mst. Nasreen Siddique. She further denied that she had filed a petition before the Justice of Peace Khanewal or that she had filed a complaint in the court of learned Magistrate deposing therein that her marriage with Waheed was forcibly solemnized and *Rukhsati* had not taken place. In his statement, her father Muhammad Siddique (PW2), however, admitted that Mst. Nasreen Siddique (PW1) had filed a suit for dissolution of marriage against her husband; that she had also filed a complaint against him (complainant); that a harassment petition was also filed by her against him, Muhammad Riaz (PW3) and Ahmad Yar (given up PW). He stated that she had done all the afore-mentioned acts under the effect of intoxication. However, the prosecution failed to bring on record any proof that Mst. Nasreen Siddique (PW1) at any stage of her alleged abduction was intoxicated by the petitioner. The defence has brought on record copy of harassment petition (Ex.DA) filed by the alleged abductee Mst. Nasreen Siddique against her father Muhammad Siddique (complainant) and Ahmad Yar (given up PW) which was filed on 17.03.2010 i.e. after four days of registration of FIR, wherein she alleged that she was forced to contract *Nikah* with Abdul Waheed in March 2008 by her father; that she had filed a suit for dissolution of that *Nikah* before Family Court, Khanewal; that in order to harass her, the complainant Muhammad Siddique (her father) had got registered the instant FIR; that the complainant side is forcing her to make a false statement etc. Another complaint (Ex.DB) filed by the alleged abductee Mst. Nasreen Siddique in the Court of Illaqa Magistrate against Abdul Waheed, Muhammad

Siddique (complainant), Muhammad Riaz (PW3) and Ahmad Yar (given up PW) has been brought on record, wherein it is alleged by Mst. Nasreen Siddique that on 12.03.2010, Abdul Waheed along with complainant Muhammad Siddique, Muhammad Riaz and Ahmad Yar attacked her house in order to abduct her or to kill her but on her hue and cry, people around the area reached at the spot and saved her. In these circumstances, we are not hesitant to hold that the prosecution has failed to prove its case against the petitioner beyond reasonable doubt.

6. For what has been discussed above, the instant jail petition is converted into an appeal and the same is hereby allowed. The conviction and sentence of appellant Muhammad Siddique is set aside. He is acquitted of the charge framed against him. He shall be released forthwith, if not required to be detained in any other criminal case.

**Bench V**  
**Islamabad, the**  
27.03.2019

*Approved For Reporting*

K. Anees/

21/4/19

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