

IN THE HIGH COURT OF SINDH, KARACHI

Cr. Appeal No.532 of 2025

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Syed Fiaz ul Hassan Shah

Appellant:- Shahbaz @ Shabi through Mr. Aamir Zaheer Mirza,  
Advocate.

Respondent:- The State through Ms. Rubina Qadir, Deputy  
Prosecutor General.

Date of hearing:- 26.02.2026

Date of decision:- 09.03.2026

**J U D G M E N T**

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**MUHAMMAD IQBAL KALHORO J:** The appellant against the charge of abduction of a minor daughter of complainant namely Ruksana Marium aged about 15/16 years from Old Lakhpati Hotel, Ranchore Lane, Karachi, administering her intoxication, committing rape with her along with co-accused and recording such incident on his mobile phone, was tried by the learned Additional Sessions Judge-VII, Karachi East, and has been returned guilty verdict vide impugned judgment dated 07.08.2025 in the terms as below:-

Sr. No.	Offence Punishable Under Section	Sentence awarded to the accused
1	365-B, PPC	Accused Shahbaz @ Shabi is sentenced to suffer Rigorous Imprisonment (R.I.) for ten (10) years and pay fine of Rupees one lac (Rs. 100,000/-) and in case of default, he would further suffer Simple Imprisonment (S.1.) for six (06) months.
2	337-J, PPC	Accused Shahbaz @ Shabi is sentenced to suffer Rigorous Imprisonment (R.1.) for five (05) years.
3	376, PPC	Accused Shahbaz @ Shabi is sentenced to suffer Rigorous Imprisonment (R.1.) for twenty (20) years and pay fine of Rupees five lae (Rs. 500,000-) and in case of default, he would further suffer Simple Imprisonment (S.1.) for one (01) year.
4	292-C, PPC	Accused Shahbaz @ Shabi is sentenced to suffer Rigorous Imprisonment (R.1.) for fourteen (14) years and pay fine of Rupees ten lac (Rs.10.00.000/- and in case of default, he would further suffer Simple Imprisonment (S.1.) for one (01) year and six (06) months.

5                    506, PPC

Accused Shahbaz @ Shabi is sentenced to suffer Rigorous Imprisonment (R.1.) for one (01) year and pay fine of Rupees fifty thousand (Rs. 50,000/-) and in case of default, he would further suffer Simple Imprisonment (S.I.) for three (03) months.

2. Briefly, complainant has alleged in FIR dated 18.06.2021 that a week before his daughter went out in a street at about 09:00 pm to buy some items. The appellant, their neighbor, who runs a fruit cart stopped her and on the excuse that her father was being beaten by some people near Gora Qabrstan, lured her to sit with him on a motorcycle to rush to that place to save her father. There, he drugged her and took her to an unknown location where he along with two other accused namely Mubashir Khalil and one unknown raped her. At about 12:30 a.m. they left her near the house, where she narrated the entire episode to her parents who initially kept quiet out of shame but when the same individuals started issuing threats to make nude video of their daughter viral, the complainant moved an application for registration of FIR against them.

3. In the investigation, appellant was arrested, and the victim girl was examined by Women Medico Legal Officer. On 22.06.2021, her statement u/s 164 CrPC was recorded. After due formalities, the challan was submitted in the Court which took cognizance of the offence and framed charge against the appellant. He pleaded not guilty and claimed the trial.

4. In order to prove the charge, prosecution has examined 11 witnesses including the victim, WMLO, Magistrate who recorded the statements u/s 164 CrPC of the victim and others who have produced all the relevant documents. Then, statement of appellant was recorded u/s 342 CrPC. He has denied the allegations and said that he has been falsely implicated in this case because he had demanded cost of fruit purchased by complainant and his daughter. He did not examine himself on oath, nor led any evidence in defence.

5. The trial Court found the appellant guilty of the offence and vide impugned judgment has convicted and sentenced him in the terms as above. Hence this appeal.

6. Learned defence counsel has argued that appellant is innocent and has been falsely implicated in this case; the medical evidence is in

contradiction with the oral evidence of the victim; DNA report is in negative and there is only a solitary statement of the victim unsupported by any corroboratory evidence; hence conviction and sentence are not sustainable; the victim has improved her account in the evidence and contradicted her own statement u/s 164 CrPC. It is a settled proposition that even if a single circumstance creates a doubt, the accused is entitled to its benefit as a matter of right. He has relied upon **1993 SCMR 550, PLJ 2018 Cr. C.833, PLJ 2023 Cr. C (Note) 13, PLJ 2024 Cr. C. (Note) 277 and PLJ 2925 SC (Cr. C) 139.**

7. On the other hand, learned Deputy Prosecutor General has supported the impugned judgment and states that minor girl was raped by the appellant and other absconding accused which has been proved by the prosecution by leading relevant evidence.

8. We have considered submissions of the parties, perused material available on record, and taken guidance from the cited case law. Complainant in his evidence has reproduced the entire story narrated by him in the FIR. He has given relevant dates when incident took place; the names of appellant and co-accused, who committed the alleged rape with his daughter; arrest of appellant; preparation of relevant memos in his presence and the fact that his daughter and appellant were medically examined.

9. Next witness examined by the prosecution is the victim herself who at the time of evidence was aged about only 15/16 years. She has in detail divulged the entire story and has confirmed that on the day of incident she left her house for purchasing some items when appellant told her about beating of her father by some people at Goura Qabrstan. She initially tried to alarm her mother but he induced her to rush to the place of incident instead to save her father. On arrival there, appellant gave her some water, which she drank and felt dizzy and zoned out. When she regained her senses, she found herself in a godown where appellant, co-accused Mubashir and a guard committed rape with her. They also recorded video of the incident, after which, they dropped her outside of her house. There, she narrated entire story to her parents who subsequently lodged the FIR.

10. Mother of the victim namely Safia has been examined by the prosecution as PW-03, she has repeated the same story in her

deposition. Next is the evidence of mashir of arrest of appellant, namely PC Qaiser Shahzad as PW-04, who in his deposition has confirmed the said fact and has further verified recovery of certain articles viz. black color wallet, mobile phone etc. from the appellant on the day of his arrest. Next evidence is of WMLO Dr. Afshan Nazli as PW-05, who had examined the victim on 18.06.2021 after about 14 days of the incident i.e. 04.06.2021. She has observed that her hymen was found old torn and healed.

11. Second investigation officer of the case Sub-Inspector Amna Rani has been examined as PW-06. Her evidence is confined to the fact that she received police papers and the articles recovered from appellant for investigation but statements of PWs were already recorded by the previous I.O. which she confirmed by calling PWs again at Police Station. She visited house of victim but found it locked and on inquiry came to know that complainant party had already shifted.

12. PW-07 Dr. Syed Hassaan Ahmed had examined appellant to verify whether he was potent or not. As per his report, appellant was capable of performing sexual intercourse. Prosecution has also examined SIP Muhammad Rafeeq as PW-09 who in his deposition has verified the fact that on 18.06.2021 he had arrested the accused on pointation of victim and from his search recovered certain articles including wallet, mobile phone etc.

13. Investigating officer SIP Retired Ali Murad has been examined as PW-10. He has given a full account of investigation including his visit to place of incident, preparation of documents, referring the victim and appellant for medical examination, presenting the victim before the Magistrate for recording her statement u/s 164 CrPC, sending vaginal swabs for chemical examination, blood samples of the victim and accused to the Lab for a DNA report. The last witness examined by the prosecution is Judicial Magistrate Ms. Benazir Ashraf, who has verified that she had recorded statement of the victim u/s 164 CrPC.

14. As against such evidence, statement of appellant u/s 342 CrPC was recorded, in which, he has denied any such incident. He could not offer however any explanation to the incriminating evidence expect taking a plea that he was implicated in the case because he had demanded the cost of fruit purchased by complainant and victim.

15. We have examined the entire evidence and compared it with the plea taken by the appellant. The defense plea appears to be absurd, as it is highly unlikely that a father would ruin future of her daughter and invite shame, just because a vendor from whom he had purchased the fruit had demanded its cost. The victim in her deposition has fully corroborated the story of rape with her by appellant and others. She has confirmed the salient features of the case viz. her coming out of the house to buy some items, meeting with the appellant viz. his inducing her to go with him to Gora Qabrstan on a ruse that her father was being beaten, showing urgency to hurry there instead of letting her inform mother, drugging her, and ultimately committing rape with her in some isolated godown along with other co-accused.

16. We have found no variation or contradiction in deposition of the victim insofar as the essence of the incident is concerned. Learned counsel in defence took the plea that in 164 CrPC statement, the victim has not stated about any threat, or being blackmailed, as deposed by her in evidence. He further claimed that alleged video was not found in the mobile phone of the appellant; hence, it is clear that such parts of the story were fabricated by the victim and her father. Per him, this fabrication and improvement in evidence shall make them unreliable witnesses.

17. We however do not agree with him as it is settled principle that minor discrepancies between statements u/s 161 or 164 Cr PC and the account given in the evidence, being natural phenomena, do occur. These discrepancies cannot be given much weight, not so much so that on the basis thereof, pristinity of the evidence is discarded. It is settled that only those contradictions which undermine the salient features of the case are to be taken into account for doubting the evidence. As we have discussed above, the victim has stood the ground in describing the main features of the case, and nothing in her cross-examination has come on record which may impair veracity of her evidence.

18. Her evidence finds support from the medical evidence of the doctor who has confirmed that she was not found virgin at the time of examination and her hymen was found old torn and healed. The victim was subjected to rape on 04.06.2021 and was examined on 18.06.2021 after about 14 days. This furnishes a sufficient explanation why no mark

of violence was seen. Secondly, it is not even the case of prosecution that she had offered some resistance at the time of incident. Her molestation occurred when she had already been drugged by appellant and was in semi consciousness. Hence there is no question of presence of violent marks on her body and that too after about 14 days of the incident.

19. The fact that her hymen was found old torn and healed confirms the allegations. She was minor and yet not found virgin points to the fact that she was sexually used. Her evidence is not shaken by any material contradiction or discrepancy, and we see no reason therefore to disbelieve her. Further, it is not only her solitary evidence, as argued by learned defense counsel. She is supported by medical evidence and her parents, who have confirmed her disappearance from the house during the incident and her return in a precarious condition on the same night.

20. Non-collection or non-production of the video clip allegedly recorded at the time of incident is a fault of the Investigating Officer which cannot be allowed to reflect adversely on the authenticity of the narration chronicled by the victim and other witnesses. The prosecution by examining all relevant witnesses has succeeded in bringing home guilt of the appellant. It has been established that victim was enticed away by the appellant to an unknown location in a godown where she was subjected to rape by him and other two accused. The allegations are supported by the medical evidence and other evidence, as reproduced above. There is nothing on the record which may be considered creating a doubt in the prosecution case. The learned trial Court has properly appreciated the entire evidence and rightly concluded the appellant to be guilty of the offences. We do not see any merit in this appeal and accordingly dismiss it.

The appeal is accordingly disposed of in above terms.

JUDGE

JUDGE

HANIF