

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Khalid Hussain Shahani

Special Criminal Anti-Terrorism Appeal No. 117 of 2024

Appellant : Hafiz Azam son of Mujahid Hussain
Through Mr. Aamir Mansoob Qureshi, Advocate

Special Criminal Anti-Terrorism Jail Appeal No. 122 of 2024

Appellant : Manzoor Hussain son of Muhammad Siddiqui.
Through Mr. Matloob Hussain Qureshi, Advocate

Special Criminal Anti-Terrorism Appeal No. 123 of 2024

Appellant : Afrasiyab son of Noor Muhammad
Through Ms. Shabana Chouhan, Advocate.

Special Criminal Anti-Terrorism Appeal No. 141 of 2024

Appellant : Iqbal Ahmed @ DJ son of Jamal Ahmed.
Through Mr. Shahzad Ishaque, Advocate

Respondent : The State
Through Mr. Mumtaz Ali Shah, APG Sindh duly
assisted by Mr. Meezan Ali, Advocate for the
Complainant.

Date of hearing : 09.09.2026

Date of judgment : 18.09.2026

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. - These connected appeals arise from the consolidated judgment dated 30th September 2024 passed by the learned Judge, Anti-Terrorism Court No.XVI, Karachi. The principal prosecution was Old Special Case No.353/2022, renumbered Special Case No.193/2022, arising from FIR No.271/2022 of Police Station New Town under sections 365-A and 34 of the Pakistan Penal Code, 1860 ('PPC') read with Section 7 of the Anti-Terrorism Act, 1997 ('ATA'). The connected arms cases were: (i) Old Special Case No.353-A/2022, renumbered Special Case No.194/2022, arising from FIR No.17/2022 of Police Station AVCC/CIA against Iqbal Ahmed alias DJ; and (ii) Old Special Case No.353-B/2022, renumbered Special Case No.195/2022, arising from FIR No.18/2022 of the same police station against Manzoor Hussain, both under Section 23(1)(a) of the Sindh Arms Act, 2013 ('SAA'). Old Special Case No.391/2022, renumbered Special Case No.200/2022, arose from FIR No.45/2022 of FIA, Karachi, under Sections 3 and 4 of the Anti-Money

Laundering Act, 2010 ('AMLA') read with Section 7 ATA and was directed against Iqbal Ahmed. Hafiz Azam faced no separate arms prosecution. Muhammad Waseem alias Baba remained absconding; nothing in this judgment determines his case.

2. The trial Court convicted all four tried accused, namely Afrasiyab, Iqbal Ahmed alias DJ, Manzoor Hussain and Hafiz Azam for offences under Section 365-A read with Section 34 PPC and sentenced each to rigorous imprisonment for life with forfeiture of property; under Section 342 read with Section 34 PPC to rigorous imprisonment for one year and fine of Rs.3,000, with the recorded default consequence; and under Section 7(e) ATA to rigorous imprisonment for life. It separately sentenced Iqbal Ahmed and Manzoor Hussain to seven years under Section 23(1)(a) SAA. Although the AML case was charged under sections 3 and 4 AMLA, the operative part did not record a discrete sentence under those provisions; instead, invoking Section 237 Cr.P.C., it convicted all present accused of 'fund arrangement' under Section 11J, punishable under Section 11N ATA, and sentenced each to rigorous imprisonment for six years. All substantive sentences were ordered to run concurrently with benefit under Section 382-B Cr.P.C.
3. The appeals require a fresh, independent and accused-specific appraisal. Proof that a kidnapping occurred does not identify its perpetrators. Nor may evidence against one accused be applied en bloc to another. We have therefore first tested every material item through the witness who produced it, next determined its lawful evidentiary use, and only then considered whether the proved items establish the individual participation of each appellant.
4. As per prosecution theory, Muhammad Ali Aziz reported that on 14th June 2022 his father, Dr Muhammad Talib Aziz, left for his medical practice at Habib Chamber, Gulshan-e-Iqbal, in motorcar No.BBP-117. At about 11:37 a.m. Muhammad Ali received a call from his father's mobile number 0334-3757007. The caller said that Dr Talib had been abducted and demanded Rs.50,000,000. FIR No.271/2022 was registered at about 2:30 p.m. against unknown persons. No appellant was named and the FIR contained no physical description.
5. Dr. Talib's account was that two armed persons intercepted him between about 11:00 and 11:30 a.m.; one produced a paper or purported warrant and displayed a pistol, while the other sent away the tailor Muhammad Toufique. Dr Talib was placed in the rear seat, made to wear black printed glasses as a blindfold and taken away. During about eight hours of detention, calls were made to his son. The demand was negotiated and he was released near Jamali Pull after payment. He was not recovered in a police raid: he reached the vicinity of traffic police after the offenders released him and his son then joined him. The impugned judgment's occasional expression 'recovery of the abductee' is therefore corrected to 'release of the abductee'.

6. The figures must not be conflated. Dr. Talib deposed that about Rs.400,000 was removed from his person; the charge referred to Rs.450,000. Muhammad Ali deposed that Rs.3,000,000 was delivered as ransom. A passage mentioning Rs.30,000,000 is a manifest numerical error in light of the oral account, charge and surrounding discussion. The alleged police disclosure referred to Rs.3,300,000, but that narrative is inadmissible except to the extent of a proved discovery. The aggregate cash allegedly recovered was Rs.689,000: Rs.289,000 from Manzoor, Rs.300,000 from Hafiz and Rs.100,000 from Afrasiyab; no cash was shown recovered from Iqbal. No recovered note was identified by serial number. We accordingly find only that the prosecution proved payment of Rs.3,000,000 as ransom. We do not treat the Rs.400,000/450,000 discrepancy, the Rs.3,300,000 disclosure figure, or the aggregate recovery as a proved common fund.
7. For the appellants it was argued that the FIR was against unknown persons; no witness gave a prior description; the identifying witnesses were exposed to photographs or police custody; the parade was delayed; Muhammad Toufique identified no one; the CCTV showed masked figures and was copied from an unproduced DVR; CDRs were tendered without the issuing telecom witness or proper certification; handsets and SIMs were not safely linked; cash was unmarked; no private person witnessed the public-place arrests; disclosure narratives were inadmissible; forensic results did not connect the appellants; and the arms and banking material suffered from gaps in proof and custody. It was further submitted that a private kidnapping for money did not meet Section 6 ATA; Section 34 could not replace proof of participation; the trial Court could not use Section 237 Cr.P.C. to convict all accused of an uncharged terrorist-funding offence; and the Section 342 examinations did not cure unproved prosecution evidence.
8. Learned counsel for Afrasiyab emphasized that the abductee failed to identify him at the judicial parade; Muhammad Ali and Muhammad Toufique did not identify him; no role was attributed to him; his Rs.100,000 was ordinary unmarked cash; a Rs.50,000 bank transfer was never traced to ransom; calls with a relative proved association at most; and no fingerprint, DNA, device extraction or admissible discovery linked him to the abduction. The Additional Prosecutor General replied that the occurrence, ransom and release were unquestioned and that identification, recoveries, communications, weapons and conduct, considered together, proved a coordinated enterprise. The State maintained that police witnesses were competent and minor procedural defects did not displace otherwise credible direct evidence.
9. From the submissions made by learned counsels for either parties, the questions for determination arose: (i) whether abduction, confinement and ransom were proved; (ii) what each prosecution witness and exhibit lawfully proves; (iii)

whether identification was reliable for each appellant; (iv) whether the CDR, bank, cash, device, forensic, arrest and recovery evidence was proved and what weight it bears; (v) whether common intention was independently established; (vi) whether sections 6 and 7 ATA were attracted; (vii) whether either arms conviction is sustainable; (viii) whether AMLA or sections 11J/11N ATA were proved; (ix) whether all material circumstances were put under Section 342 Cr.P.C.; and (x) the precise relief.

- 10.** It is settled principle of law that the prosecution bears throughout the burden to prove every ingredient and the identity of each offender beyond reasonable doubt. An accused need not establish why a witness might lie, prove an alternative account, produce a defence witness, or 'break' a prosecution chain. A false or weak defence may lend assurance only after the prosecution has independently proved a complete case; it cannot repair missing proof. One reasonable doubt on a material point requires acquittal as of right: 1995 SCMR 1345¹; 2018 SCMR 772².
- 11.** Our judicial system does not mechanically apply *falsus in uno, falsus in omnibus*. A court may accept a severable, independently trustworthy part of testimony while rejecting another part, but must explain the separation. Where identification is in issue, the opportunity of observation, prior description, interval after arrest, intervening exposure, composition of dummies, separation of witnesses, objections and assignment of a specific role are material. A dock identification is ordinarily weak unless supported by a fair earlier test or independent evidence. PLD 2019 488³ requires substantive compliance with these safeguards.
- 12.** Electronic evidence is legally receivable under Article 164 of the Qanun-e-Shahadat Order, 1984, but the proponent must prove source, authenticity, integrity and relevance. The original device is not invariably indispensable, yet absence of the DVR, an incomplete extraction history, lack of a hash or forensic verification, and visually indistinct images reduce weight. PLD 2019 SC 675⁴ underscores the need to exclude alteration and establish provenance.
- 13.** A CDR ordinarily proves only that network events occurred between stated numbers and that a handset communicated through a serving tower. It does not prove the speaker, conversation, criminal purpose or pinpoint presence. Subscriber registration is not proof of exclusive use. The record must establish authorized production, certification, the relevant numbers, actual possession or use, date and time of calls, IMEI/SIM linkage and the limits of tower geography. An unproved CDR cannot be made admissible by an answer under Section 342 Cr.P.C.

¹ Tariq Pervez v. The State

² Muhammad Mansha v. The State

³ Kanwar Anwaar Ali v. The State

⁴ Ishtiaq Ahmed Mirza and 2 others v. Federation of Pakistan and others.

- 14.** Under Articles 38, 39 and 40 of the Qanun-e-Shahadat Order, a confession to police or in police custody is inadmissible, save only so much of information as distinctly relates to a fact thereby discovered. Ordinary currency has no incriminating identity unless its serials, denomination schedule, source, exclusive possession and surrounding discovery are proved. Police officers are competent witnesses, but reliability must be tested affirmatively through contemporaneous entries, consistent memoranda, association or explanation for non-association of private witnesses, sealing, custody and dispatch. The accused's failure to prove prior detention is not a substitute for that inquiry.
- 15.** Section 34 PPC embodies joint liability after intentional participation in a shared design is proved. It cannot first be used to infer membership and then recycle that inferred membership as proof of common intention. Presence at every stage is unnecessary, but the evidence must demonstrate an act or conduct by each accused showing knowledge of and contribution to abduction, detention, demand, collection or disposal of ransom.
- 16.** Perusal of evidence of each witness both ocular and documentry brought on the record suggests:
- a)** PW-1 Dr. Muhammad Talib Aziz, Ex.6 and Ex.6/P-1 to P-10. He proved the abduction, armed restraint, about eight hours of confinement, ransom calls and eventual release, besides the inspection memoranda, identification papers and his statement under Section 164 Cr.P.C. His earlier statements contained no names or descriptions; he remained blindfolded for material periods; possible media exposure was suggested; and he did not identify Afrasiyab at the parade. His testimony is reliable regarding the occurrence. His identification of Iqbal and Hafiz, his recognition claim concerning Manzoor, and his affirmative non-identification of Afrasiyab require separate assessment.
 - b)** PW-2 Muhammad Ali Aziz, Ex.7/P-1 to P-3. He proved the prompt FIR, ransom communications, negotiation, delivery of Rs.3,000,000 and his reunion with his father after release. No serial numbers of currency were recorded; his police statement omitted the motorcycle collector and his ability to recognize that person; no voice recording was produced; and he was not asked to identify the recovered notes. His account is reliable regarding demand and payment, but his dock identification cannot independently establish identity.
 - c)** PW-3 Muhammad Toufique. He saw the roadside interception and was directed away. His opportunity of observation was brief, the offenders were masked and he identified no appellant. His evidence corroborates the occurrence, not the identity of any offender.
 - d)** PW-4 HC Tariq Sammad, Ex.9/P-1 and USB Ex.9/P-2. He stated that on 4 July 2022 he copied about fifty-six minutes from the gate-camera DVR and that the USB was played at trial. The original DVR, camera owner and operator were not produced; no written request, forensic hash or

technical certification was proved; the faces were masked and the location board was not visible. The footage provides limited corroboration of an interception but no facial identification.

- e) PW-5 ASI Shahjahan. He formally proved registration of the FIR and the related entry. Having no personal knowledge of the occurrence, his evidence proves prompt reporting but not identity.
- f) PW-6 ASI Junaid, Ex.11/P-1 and P-2. He claimed a joint arrest at 1:00 a.m. on 23 June 2022 near Jamali Pull and itemized the alleged personal recoveries. Although the place was public, no private mashir joined; the time and source of the spy information were omitted; cash and phones were unsealed; denominations, IMEI and SIM details were absent; and discrepancies arose concerning direction, purses and the arrival entry. The alleged cash and devices cannot constitute primary proof of kidnapping, while the arms recoveries require independent statutory examination.
- g) PW-7 Shakeel Ahmed, Ex.12/P-1. His testimony concerned ownership and recovery of motorcycle KKT-9231 and an allegation that Iqbal demanded money for its return. That was a separate property episode and cannot prove the present kidnapping or be used as propensity evidence.
- h) PW-8 Magistrate Danish Batool, Ex.15/P-4 to P-6 and P-8. She conducted separate identification parades on 2 July 2022. Iqbal and Hafiz were identified; Afrasiyab was not. The accused were produced muffled and selected their positions. The parade nevertheless occurred nine days after arrest, staff members served as dummies, the Magistrate did not call for the Section 161 statements, Iqbal had a visible leg injury or limp, and the witness's prior statement contained no physical description. The identifications of Iqbal and Hafiz are therefore usable only with caution and independent assessment; Afrasiyab's negative result is a material circumstance in his favour.
- i) PW-9 FIA Inspector Muhammad Sohail, Ex.16/P-1 to P-14. He tendered the FIA file, family and property correspondence, and bank statements relating to Iqbal and other accused. He was not the investigating officer; no bank official or account custodian testified; no source-to-destination trail from ransom was proved; and one communication indicated that an Iqbal account had closed before the occurrence. The documents do not prove proceeds of crime, beneficial use, knowledge or a laundering transaction.
- j) PW-10 Inspector Tabassum, Ex.17/P-1 to P-34. He produced the investigation order, CDR material, forensic correspondence, scene documents, entries and notices. In cross-examination he admitted the absence of documentary identification of ransom notes; the telecom issuer was not examined and the CDR material lacked proper signature or certification; no call connected Hafiz with the victim or ransom payer;

cash and phones were unsealed; the public-place arrest lacked private witnesses; and no incriminating device extraction was identified. His evidence supports the investigation of the occurrence where independently corroborated, but the CDRs, cash and devices carry no substantive incriminating weight.

17. From above evidence, PW-1 and PW-2 are mutually consistent on the central facts including forcible taking of Dr Talib, detention, coercive telephone demands, payment of Rs.3,000,000 and release that night. PW-3 independently supports the roadside interception and PW-4's footage supports its approximate manner. The prompt FIR, made before any appellant was named, materially excludes fabrication of the occurrence. Differences over the initial demand or the precise cash on Dr Talib's person do not touch the proved ingredients. We affirm that an offence under Section 365-A PPC and wrongful confinement under Section 342 PPC occurred.

18. So far identification of each accused is concerned, Iqbal Ahmed was identified by PW-1 at the judicial parade and again in Court as an active participant during captivity. PW-2 identified him as the person to whom ransom was delivered, though the absence of a pre-trial parade makes that latter identification unsafe as an independent foundation. The parade occurred nine days after arrest. PW-8 kept the accused muffled, separated the witnesses, used a line of dummies and recorded the selected position and role; Iqbal raised no contemporaneous objection of prior exposure. His visible limp or injured leg was a distinguishing feature capable of suggesting him, so we do not treat the parade as flawless. Even excluding PW-2's dock identification as primary proof and refusing to identify a masked face from CCTV, PW-1's prolonged observation during captivity, judicial identification and consistent in-court account supply dependable direct evidence. The limp visible in the occurrence footage and recorded medical history is corroborative of gait only; it is not facial identification.

19. Hafiz Azam was likewise identified by PW-1 at a separate judicial parade and in Court. The victim had substantially longer observation during captivity than PW-3 had at the roadside. PW-8 recorded that Hafiz selected his own position, was placed among dummies and made no contemporaneous complaint of exposure. The nine days delay and absence of an earlier physical description require caution. We therefore do not rely on CDR, unmarked cash or any weapon to cure identification. We accept PW-1's evidence because his account of Hafiz's participation during captivity remained materially intact, the parade was judicial and separate, and the witness demonstrated discrimination by failing to identify Afrasiyab rather than selecting every suspect. That last feature does not prove Hafiz's guilt by itself; it reduces the risk of a blanket police-driven selection.

20. Manzoor Hussain was not subjected to the parade proved by PW-8. PW-1 nevertheless stated in Court that he recognized Manzoor as a person who had

previously worked as a carpenter at his office or house and as one of the persons participating in his confinement. This is a claim of recognition of a previously known person, not identification of a stranger first seen at the occurrence. A parade was therefore not indispensable, although the failure to name or adequately describe Manzoor in the police and Section 164 statements is a serious omission. We accept the recognition only because the prior acquaintance supplied an independent basis for memory, the victim endured prolonged confinement, the witness was cross-examined on the omission, and his testimony was not indiscriminately accusatory. The omission prevents reliance on recognition standing alone; it must be supported by independently proved conduct.

21. Afrasiyab was not identified by PW-1 at the judicial parade. PW-3 identified no one. PW-2 did not prove a safe pre-trial identification of Afrasiyab. No prior statement attributed to him a role. The CCTV cannot identify him. The prosecution's later effort to connect him through contact with Hafiz, ordinary cash and a banking entry cannot reverse a failed identification. This is not a case of a witness falsely selecting Afrasiyab and being believed selectively; the judicial process affirmatively recorded that PW-1 did not select him. However, the doubt concerning Afrasiyab does not mechanically destroy PW-1's evidence against all others. His implication arose principally from investigative inference based on association, cash and banking material, not from a false selection by PW-1. The witness's failure to identify him at the parade is consistent with an attempt to identify only persons remembered. We have nevertheless tested every remaining identification against independent safeguards and have discarded PW-2's unsupported dock identification as a primary link. The trustworthy portions concerning Iqbal, Hafiz and the prior-recognition basis concerning Manzoor are separable; the doubtful investigative case against Afrasiyab is not used to corroborate them.

22. So far CCTV, devices and forensic evidence is concerned, the camera owner/operator was not examined; the original DVR was not produced; PW-4 copied the segment on 04.07.2022 without a proved written request, hash value, forensic image or complete continuity record; and the footage showed masked or indistinct persons. We use the footage only to corroborate that an interception of the general kind described occurred. Non-production of the best source reduces weight and precludes adverse facial comparison. It does not erase the occurrence independently proved by eyewitnesses.

23. The numerous telephones, laptop and camera were inadequately described in Ex.11/P-1: SIM/IMEI particulars, sealing and individual continuity were not satisfactorily shown. PW-10 identified no forensic extraction containing a ransom message, call recording, location artefact or document attributable to a particular accused. Their mere recovery proves no criminal fact and is excluded from the guilt analysis. Fingerprint and DNA material was also neutral: the prosecution did

not establish a matching profile from a surface which its theory necessarily required a particular appellant to touch. A negative result is not affirmative innocence in the abstract, but here it supplies no corroboration and cannot fill any gap.

24. For CDR and subscriber material, the prosecution referred to numbers including 0316-8666858 and other numbers attributed to Iqbal, 0344-9181185 attributed to Afrasiyab, and numbers attributed to Hafiz and Manzoor, as well as the victim's 0334-3757007 and Muhammad Ali's 0334-3168868. PW-10 admitted that the issuing telecom custodian was not examined and that material lacked the authentication necessary to prove the computer-generated record through a competent source. The record also contains inconsistent attribution of at least one number to Manzoor and no proved call between Hafiz and the victim or ransom payer. No reliable voice identification or call content was produced.

25. Admissions in the Section 342 statements that certain numbers belonged to or were used by an accused can establish that limited fact; they cannot authenticate the prosecution's CDR charts or prove criminal content. Tower data identifies a broad service area, not an exact address or the person carrying a handset. We therefore assign no substantive weight to the CDRs against any appellant. They are unnecessary to the findings based on reliable direct evidence against Iqbal and Hafiz; against Manzoor and Afrasiyab they cannot turn association into participation.

26. To prove factum of arrest, cash and other recoveries, PW-6 claimed that at 1:00 a.m. on 23.06.2022 a police party, acting on spy information, intercepted vehicle BD-6341 near Jamali Pull and arrested the four appellants together. The place was public, yet no private witness or local police official joined. The memo omitted material detail about the information and timing; cash and phones were not sealed; denominations, serials, SIMs and IMEIs were omitted; and the property and arrival records disclosed inconsistencies. The accused's press material and assertions of Ranger custody from 20.06.2022 could not simply be rejected because they called no defence witness. Those circumstances instead required the prosecution account to withstand close affirmative scrutiny. It does not safely prove that ordinary cash and devices were recovered in the pristine condition asserted.

27. The sums of Rs.289,000, Rs.300,000 and Rs.100,000 were unmarked; PW-2 had prepared no denomination or serial-number schedule and was never asked to identify the notes. No admissible discovery showed their source and the alleged disclosure about distribution is barred except to the extent of a fact distinctly discovered. Temporal proximity and possession may create suspicion, but money cannot be classified as ransom merely because the holder is accused. We therefore do not use any cash recovery as an independent or

corroborative link in the kidnapping convictions. Difference in amount cannot explain acquitting Afrasiyab while convicting another.

- 28.** The alleged Rs.50,000 transfer involving Afrasiyab was not traced from Muhammad Ali, Dr Talib or an identified ransom pool. PW-9 was not the FIA investigating officer or bank custodian. No competent witness proved the remitter's criminal connection, beneficial ownership, source, destination or knowledge. The entry is legally neutral. Bank papers concerning Iqbal likewise identify no portion of the ransom, and one relied-upon communication indicated that an account was closed before the offence. These documents cannot prove kidnapping, proceeds of crime or laundering.
- 29.** As for as the common intention and individual participation of each accused is concerned, against Iqbal, the proved act is his active participation during detention, identified by PW-1, together with the ransom-recipient role described by PW-2, used cautiously as confirmation rather than the sole foundation. His conduct spans custody and collection and demonstrates knowledge of the ransom design. Section 34 applies because his intentional participation in the common enterprise is affirmatively established.
- 30.** Against Hafiz, PW-1's judicially tested identification and in-court evidence place him in active participation during captivity. Guarding or assisting the detention while coercive ransom calls were being made facilitates the statutory offence even if he did not personally collect payment. The duration and circumstances exclude innocent presence. His shared intention is proved by his conduct, not by association or arrest.
- 31.** Against Manzoor, the position is narrower. PW-1 recognized a previously known carpenter and placed him among those participating in the custodial phase. That proved presence was not fleeting or innocent: it occurred during unlawful detention directed to ransom. The act of assisting custody while the demand was being enforced facilitated continued coercion. The omission from earlier statements is serious, but the witness's prior acquaintance, prolonged opportunity of observation and express recognition as a participant distinguish this evidence from a first-time dock identification. We do not use unmarked cash, CDR, joint arrest or the mere possession of a weapon to prove membership of the group. On the direct recognition evidence, tested with the stated caution, his intentional participation under Section 34 is proved. Mere acquaintance, without the witness placing him in the custodial enterprise, would not have sufficed.
- 32.** No equivalent act is proved against Afrasiyab. He was not identified as an abductor, custodian, caller, collector or knowing recipient. Relationship or calls with Hafiz are capable of innocent explanation; unmarked cash and an untraced transfer do not prove ransom; and no admissible forensic or device evidence supplies participation. Section 34 cannot be invoked to create the missing act.

The prosecution case against him remains suspicion and he is entitled to acquittal.

- 33.** The prosecution invoked kidnapping for ransom within Section 6(2)(e) ATA and punishment under Section 7(e). The trial Court reasoned that an organized armed kidnapping necessarily had the 'statutory impact' of terrorism. That formulation is incomplete. The act enumerated in Section 6(2)(e) must still be read with the governing design or purpose in Section 6(1)(b) or (c), as applicable; gravity or organization alone is not the statutory test. In PLD 2020 SC 61⁵, the Supreme Court held that the nature of the act is not by itself decisive: the required statutory design or purpose must be proved. A private kidnapping for ransom may remain a scheduled offence triable by Anti-Terrorism Court without necessarily constituting 'terrorism' under Section 6.
- 34.** The proved design here was private financial gain from the family of one abductee. The victim was selected at his workplace; demands were directed to his son; release followed private payment; and no evidence showed a design to intimidate the public, create generalized insecurity, coerce Government, or advance a religious, sectarian or ethnic cause. The use of arms, planning and a large demand make the offence heinous but do not substitute for the statutory purpose. We therefore set aside the convictions and life sentences under Section 7(e) ATA. This conclusion does not nullify the trial: kidnapping for ransom remained within the scheduled jurisdiction of the Anti-Terrorism Court. Nor does it disturb the independently proved offence under Section 365-A PPC.
- 35.** The statements under Section 342 Cr.P.C. put the principal occurrence, identification, arrest, recoveries, specified mobile numbers, CDR allegations, bank documents, forensic reports and weapons to the respective accused in a series of questions. We have used no circumstance merely because it was denied. Where a relevant matter, such as certified telecom production, a traced banking transaction, device-extraction content or note serials was not proved by the prosecution, the accused's answer could not supply proof. Conversely, the limited admission of use of a phone number is used only as such. Any evidentiary detail not fairly put to the concerned accused is excluded. The convictions sustained below rest on circumstances both proved and fairly confronted.
- 36.** For connected Arms cases, the record requires correction of an earlier attribution: the arms charges concerned Iqbal and Manzoor, not Hafiz. Ex.11/P-1 records personal recovery from Iqbal of pistol No.8611 with three magazines and eight live .30-bore cartridges, and from Manzoor of a .30-bore pistol with rubbed number, one magazine and eight live cartridges. The cloth parcels were dispatched for examination. The report relating to pistol No.8611 found it not in working order; the other pistol was found in working order and semi-automatic.

⁵ Ghulam Hussain and others v. The State

The prosecution did not connect either weapon ballistically to the kidnapping; we do not use them for that purpose.

37. Section 23(1)(a) SAA, 2013 penalizes conscious possession or control of a firearm or ammunition in infringement of Section 3. Even if Iqbal's pistol was inoperable, live cartridges may constitute ammunition. But the prosecution still had to prove every statutory ingredient, including absence of lawful authority. On the supplied record no licensing-authority witness or verification certificate was proved; the arrest was at a public place without a private witness; and material defects attended the recovery memo and custody account. Iqbal's failure to assert a licence could not relieve the prosecution of its burden. His conviction and seven-year sentence in Special Case No.194/2022 are therefore set aside. This conclusion is additional to, and independent of, the finding that pistol No.8611 was not operational or ballistically connected to the kidnapping.
38. The report on the article attributed to Manzoor described a working .30-bore semi-automatic pistol, magazine and eight live cartridges. Operability does not prove unlawful possession. The same defects affect the public-place recovery, and no competent licensing record proved infringement of Section 3 SAA. The prosecution, not Manzoor, had to establish the absence of lawful authority. His conviction and seven-year sentence in Special Case No.195/2022 are therefore set aside. There is no arms conviction against Hafiz or Afrasiyab.
39. Likewise, an offence under Section 3 AMLA required the prosecution to identify proceeds of a scheduled offence, the property or transaction relied upon, the accused's acquisition, possession, use, conversion, transfer, concealment or disguise, and knowledge or reason to believe that the property represented criminal proceeds. PW-9 merely tendered a file and bank papers on behalf of another investigator. No bank custodian proved the entries; no admissible trail connected any deposit or transfer to the Rs.3,000,000 ransom; no beneficial-user evidence or laundering act was established; and the operative order did not impose a clear sentence under sections 3 and 4 AMLA. Proof that Iqbal participated in ransom-taking does not automatically prove the separate offence of laundering. Criminal Appeal No.D-91/2024 is therefore allowed and Iqbal is acquitted of the AMLA charge in Special Case No.200/2022.
40. The conviction of all four accused under Section 11J, punishable under Section 11N ATA, is also unsustainable. They were not charged with arranging funds knowing or intending that they be used for terrorism; the evidence proved no such destination or intention; and Section 237 Cr.P.C. could not cure the prejudice by introducing after trial a distinct offence with materially different ingredients. Receiving or sharing ransom, even if proved, is not without more terrorist financing. The conviction and six-year sentence under Section 11N are set aside for every appellant.

41. The proved case may be stated without the discarded material. PW-1 and PW-2 prove abduction, confinement, ransom and release. PW-1 reliably identifies Iqbal and Hafiz through judicial parades followed by in-court evidence; his prior recognition of Manzoor together with his express evidence of custodial participation proves Manzoor's narrower role. Their acts demonstrate shared intention under Section 34. The CCTV proves no identity; CDRs, ordinary cash, bank entries, devices, disclosures and neutral forensics add no incriminating weight. Afrasiyab has no proved act and must be acquitted. The private financial design does not satisfy Section 6 ATA. The arms cases fail for want of complete statutory proof. AMLA and terrorist-funding offences are not proved.

42. Therefore, in the light of above discussion:

- i. Special A.T. Appeal No.123 of 2024 filed by Afrasiyab is allowed. His convictions and sentences in Special Case No.193 of 2022 under sections 365-A and 342 read with Section 34 PPC, Section 7(e) ATA and Section 11N ATA, together with the fine and forfeiture recorded against him, are set aside. He is acquitted and shall be released forthwith unless required in another case.*
- ii. In Special Case No.193 of 2022 Iqbal Ahmed's conviction under Section 365-A read with Section 34 PPC and sentence of rigorous imprisonment for life are maintained, together with forfeiture under Section 365-A confined to property lawfully proved to belong to him and subject to third-party claims. His conviction under Section 342 read with Section 34 PPC, sentence of rigorous imprisonment for one year and fine of Rs.3,000 are also maintained. The supplied operative order recorded no default sentence and none is added. His convictions and sentences under sections 7(e) and 11N ATA are set aside and he is acquitted of those counts. His appeal arising from Special Case No.194 of 2022 and FIR No.17/2022 is allowed. The conviction and sentence of seven years under Section 23(1)(a) SAA are set aside and he is acquitted of that charge. His Criminal Appeal No.D-91 of 2024, arising from Special Case No.200 of 2022 and FIR No.45/2022, is allowed. He is acquitted of the charge under sections 3 and 4 AMLA read with ATA. Every conviction, sentence, fine or forfeiture referable exclusively to that case is set aside.*
- iii. Special A.T.A. Jail Appeal No.122 of 2024 filed by Manzoor Hussain in principal case is dismissed to the extent of his convictions in Special Case No.193 of 2022 under Section 365-A read with Section 34 PPC and Section 342 read with Section 34 PPC. The sentence of rigorous imprisonment for life with statutory forfeiture under Section 365-A, and the sentence of rigorous imprisonment for one year with fine of Rs.3,000 under Section 342, are maintained. His convictions and sentences under sections 7(e) and 11N ATA are set aside and he is acquitted of those counts. His appeal arising from Special Case No.195 of 2022 and FIR No.18/2022 is allowed. The conviction and*

sentence of seven years under Section 23(1)(a) SAA are set aside and he is acquitted of that charge.

- iv. Special A.T. Appeal No.117 of 2024 filed by Hafiz Azam is dismissed to the extent of his convictions in Special Case No.193 of 2022 under Section 365-A read with Section 34 PPC and Section 342 read with Section 34 PPC. The sentence of rigorous imprisonment for life with statutory forfeiture under Section 365-A, and the sentence of rigorous imprisonment for one year with fine of Rs.3,000 under Section 342, are maintained. His convictions and sentences under sections 7(e) and 11N ATA are set aside and he is acquitted of those counts.*

- 43.** The sentences maintained against Iqbal Ahmed, Manzoor Hussain and Hafiz Azam shall run concurrently, as directed by the trial Court, and each shall receive benefit under Section 382-B Cr.P.C. Fine if any already deposited on a count set aside shall be refunded. The trial Court and prison authorities shall prepare revised conviction warrants strictly in accordance with the table above; no conviction under Section 7(e) or 11N ATA, no AMLA conviction and no SAA conviction shall remain on the warrants.
- 44.** Because the Rs.689,000 was neither marked nor proved to be ransom, the direction treating that aggregate as ransom and depositing it in the complainant's account is set aside. Subject to any lawful attachment or independently established ownership claim, money and personal devices attributed to an acquitted appellant shall be returned to the person from whom taken after the period for further appeal. Vehicle No.BD-6341 and any motorcycle shall be returned to the person who establishes title, unless required in another case. Statutory forfeiture under Section 365-A PPC shall be executed only against property proved to belong to a person whose conviction under that Section is maintained, after notice to affected third parties; it shall not operate against Afrasiyab or property belonging to another person. The arms and ammunition shall be disposed of under the SAA after finality.
- 45.** The acquittals granted to Afrasiyab, the setting aside of all Section 7(e) and Section 11N convictions, and Iqbal's acquittal in Special Case No.200/2022 shall take effect forthwith, subject only to any order of a superior Court. All pending applications are disposed of consistently with this judgment. A certified copy shall be transmitted immediately to the trial Court and the Superintendent of the concerned prison for preparation of corrected warrants and compliance.

JUDGE

JUDGE