

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Criminal Jail Appeal No.S-107 of 2022**

**Appellant** Ghulam Qadir son of Gulsher Jogi.  
**Through** M/s Rukhsar Ahmed Junejo and Shafique Ahmed Leghari advocates.

**The State** Through Mr. Shafi Muhammad Mahar, Deputy Prosecutor General for the State.

**Date of hearing** 31-10-2023

**Date of decision** 31-10-2023.

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

**IRSHAD ALI SHAH, J-** The appellant is alleged to have committed rape with baby Nadra a young girl aged about 10/11 years, his own daughter, for that he was booked and reported upon by the police. On conclusion of trial, he was convicted u/s 376 (3) PPC and sentenced to undergo rigorous imprisonment for life and to pay fine of Rs. 100,000/- (one lac) and in default whereof, to undergo simple imprisonment for two years with benefit of section 382(b) Cr.P.C by learned IInd Additional Sessions Judge/Gender Based Violence Court, Sukkur vide judgment dated 16-11-2022, which he has impugned before this Court by preferring the instant Crl. Jail Appeal.

2. At the very outset, it is stated by learned counsel for the appellant that the counsel who was appointed for the appellant to defend him on State expenses was too junior to have been appointed in the case like present one which is entailing death penalty and/or imprisonment of life, in that way the appellant has been prejudiced in his defence seriously. By contending so, they sought for remand of the case to learned trial Court for fresh trial. In support of their contention they relied upon case of *Ghulam Rasool Shah and another Vs. The State* (2011 SCMR 735), which is not opposed by learned DPG for the State.

3. Heard arguments and perused the record.

4. Obviously the offence alleged against the appellant was/is serious in nature; therefore, the appellant ought to have been provided the services of counsel to defend him on State expenses having sufficient experience; the Counsel appointed to defend the appellant on State expenses was too junior and her name too was not appearing in the list of defence counsel maintained by the Court; therefore, in such situation the contention of learned counsel for the appellant that the appellant has been prejudiced in his defence seriously could not be over looked; consequently the impugned judgment is set aside with direction to learned trial Court to recall and re-examine the complainant and his witnesses and then make fresh disposal of the case in accordance with the law.

6. The instant Criminal Jail Appeal is disposed of accordingly.

**J U D G E**