

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

**Crl. Jail Appeal No. S-57 of 2023**

Appellant: Alamgeer son of Abdul Fatah Solangi (Confined at Central Prison Sukkur) **Through** Mr. Arif Ali Abbasi advocate.

The State: Through Mr. Shafi Muhammad Mahar Deputy P.G.

Date of hearing: 16-04-2024.

Date of decision: 16-04-2024.

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

**IRSHAD ALI SHAH, J.** It is alleged that the appellant attempted to abduct baby Zara a girl aged about 8/10 years with intention to commit her murder or to subject her to grievous hurt, for that he was booked and reported upon by the police. On conclusion of trial, he was convicted u/s 511 PPC and sentenced to undergo rigorous imprisonment for seven years with fine of Rs. 100,000/- and in default in payment whereof to undergo simple imprisonment for one year with benefit of section 382(b) Cr.P.C by learned IInd Additional Sessions Judge/Gender Based Violence Court, Sukkur vide judgment dated 08-06-2023, which is impugned by the appellant before this Court by preferring the instant Crl. Jail Appeal.

2. At the very outset it is pointed out by learned counsel for the appellant that excepting one or two all the PWs have been examined by learned trial Court with opportunity to the appellant to cross examine them; which is not a substitute of cross examination is to be made a counsel and moreso the side of the appellant has been closed by learned trial Court without summoning the witnesses which he was intending to examine in his defence which has prejudiced him in his defence. By pointing so, he suggested for remand of the case for fair trial and examination of the defence witnesses, which is not opposed by learned Deputy P. G for the State.

3. Heard arguments and perused the record.
4. The omission pointed out above takes support from record. It is contrary to the mandate contained by Article 10-A of Islamic Republic of Pakistan, 1973, which prescribes right of fair trial; consequently the impugned judgment is set aside with direction to learned trial Court to recall and re-examine the witnesses to be cross examined by the counsel engaged by the appellant or to be engaged for him by the Court on State expenses and then to make disposal of the case afresh in accordance with law by examining the defence witnesses, if the appellant is intending to examine them, preferably within two months after receipt of copy of this judgment.
5. Instant Crl. Jail Appeal is disposed of in above terms.

**JUDGE**