

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No. 654 of 2024

Appellant : Umar Farooq son of Khan Bahadur,
Through Barrister Babar Hussain Shah, advocate.

Respondent No.1 : The State
Through Mr. Muhammad Mohsin Mangi, APG
Sindh.

Respondent No.2 : Gul Muhammad
Through Mr. Basam Ali Daheri, advocate.

Date of hearing : 21.05.2025

Date of judgment : 26.05.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J— This Criminal Appeal arises from the judgment dated 27.08.2024, passed by the learned Xth Additional Sessions Judge, Karachi West, in Sessions Case No.2153/2023, whereby the appellant, Umar Farooq, was convicted for offence under Section 376(3), Pakistan Penal Code, 1860, and sentenced to rigorous life imprisonment along with a fine of Rs.200,000/-, and in default thereof, to undergo six months' simple imprisonment with benefit of Section 382-B, Cr.P.C.

2. Per the contents of FIR No. 396/2023, registered at P.S. Ittehad Town by complainant Gul Muhammad, his nieces Zoha (aged about 13/14 years) and Haya, daughters of his drug-addicted brother Asif Khan and his wife, resided with the appellant and his spouse Saeeda (the complainant's sister) for about three (03) years in Qaimkhani Colony, Baldia Town, Karachi. Two months prior to registration of the case, the appellant expressed inability to continue the girls' custody, and they were returned to the complainant's household. About fifteen days thereafter, Zoha complained of abdominal pain to her sister-in-law, and upon inquiry, disclosed that during Saeeda's absence on Eid-ul-Adha, the appellant subjected her to multiple incidents of rape, threatening to kill her younger sister Haya if she revealed the assaults. Consequent upon; case was registered inter alia on above facts.

3. The appellant was arrested. Medical examination confirmed the appellant's potency, and the victim's examination by the WMLO confirmed signs of sexual intercourse. Zoha's statement under Section 164, Cr.P.C. was recorded before a Judicial Magistrate, wherein she implicated the appellant for repeated

sexual assault. Following investigation, a charge sheet for offence under Section 376 PPC was submitted.

4. To establish its case, the prosecution examined nine witnesses, including: PW-1 ASI Abdul Jabbar (FIR author), PW-2 Zoha (victim), PW-3 Gul Muhammad (complainant), PW-4 Dr. Asad (MLO), PW-5 Dr. Sidra Tariq (WMLO), PW-6 Ms. Nazia (Judicial Magistrate), PW-7 Anees-ur-Rehman, PW-8 Insp. Manzoor Hussain Shah (I.O.), and PW-9 Mst. Shehla. The appellant's statement under Section 342, Cr.P.C. was recorded, wherein he denied the allegations and pleaded false implication due to domestic disputes. He did not opt to be examined on oath in his defence but examined his wife Mst. Saeeda Khanum as his defence witness. The learned trial Court held that the prosecution proved the case beyond reasonable doubt and convicted the appellant accordingly.

5. Learned counsel for the appellant mainly contended: That the impugned judgment is contrary to law, facts, and equity, and is the result of misreading and non-reading of material evidence; That the prosecution failed to produce direct or circumstantial evidence connecting the appellant with the commission of the alleged offence under Section 376, PPC; That there exists an unexplained delay of sixty-eight (68) days in lodging the FIR, casting serious doubt on the veracity of the complaint and indicating possible mala fide and false implication; That the arrest of the appellant prior to the registration of FIR indicates bias and ulterior motive; That the medical and DNA evidence is inconclusive and fails to corroborate the charge, especially noting the negative forensic report stating: "no seminal material identified on vaginal swab of the victim" (Exh.9), contradicting allegations of repeated rape; That the victim's medical report showed no evidence of physical trauma or injury consistent with repeated rape, with ultrasound and urine reports being normal and vaginal examination marked "normal"; That the statement under Section 164, Cr.P.C. lacks material particulars such as date, time, place, or removal of clothes, and the victim used vague terminology like "badtamizi" (misconduct) instead of legally specific terms like "Zina" or "Ziadi" (rape/sexual assault), which was also admitted during cross-examination; That no eye-witness supported the prosecution's narrative, and there were improvements and contradictions in the victim's statements under Sections 161 and 164, Cr.P.C.; That the investigating officer was biased and conducted a flawed investigation influenced by PW Anees-ur-Rehman; That the learned trial Court erred in treating uncorroborated and vague testimony of the victim as sufficient for conviction in

absence of credible supporting evidence. In support of aforesaid contentions, he placed reliance upon the following precedents;

- i. *2022 P.Cr.L.J Note 47 [Sindh] – Unexplained FIR delay and lack of medical corroboration entitles accused to acquittal.*
- ii. *2021 MLD 169 [Sindh] – Benefit of doubt must be given if a single circumstance creates reasonable doubt.*
- iii. *2024 MLD 1563 – Conclusive medical and DNA evidence is essential in rape cases.*
- iv. *2024 P.Cr.L.J 1048 – Mere victim statement, absent corroboration of time, date, place, and physical evidence, insufficient for conviction.*
- v. *2023 P.Cr.L.J 1693 – Use of vague expressions such as "badtamizi" weakens prosecution's case in sexual offences involving minors*

6. Learned Additional Prosecutor General for the State, duly assisted by the learned counsel for the complainant, opposed the instant appeal and submitted that the appellant was specifically nominated in the FIR as well as in the statements of the victim recorded under Sections 161 and 164, Cr.P.C. It was contended that the victim consistently implicated the appellant during her examination before the learned trial Court and expressly denied the suggestion of no sexual assault during cross-examination. They maintained that the victim's version was credible, coherent, and worthy of reliance, further corroborated by the medico-legal officer's opinion indicating that the victim was subjected to sexual intercourse. It was further submitted that the victim being a minor had no enmity or motive to falsely implicate the appellant and minor inconsistencies, if any, in her testimony ought to be overlooked due to her tender age and vulnerable condition. They further contended that the delay in lodging the FIR had been satisfactorily explained, as the victim remained under fear and threats extended by the appellant, which caused hesitation and delay in approaching the police authorities.

7. I have thoroughly examined the trial court record, meticulously analyzed the impugned judgment, and given anxious consideration to the submissions advanced by the learned counsel for the appellant and the learned Additional Prosecutor General, ably assisted by the learned counsel for the complainant. The principal thrust of the appellant's challenge is premised on purported infirmities in the prosecution's evidence, including alleged contradictions, omission of details in medical evidence, delay in registration of the FIR, and alleged mala fide due to an existing property dispute. It is proposed to address each contention in a systematic manner to evaluate whether the impugned conviction is sustainable in law.

8. The appellant's sweeping contention, that the prosecution adduced "no direct or indirect evidence" and that the trial court failed to apply a judicious mind

in its evidentiary assessment, is fundamentally untenable under established principles of criminal jurisprudence. A rigorous deconstruction of the evidentiary matrix reveals a robust foundation for the conviction, anchored in the convergence of credible testimonial and medical evidence, which the trial court meticulously analyzed through the lens of substantive and procedural fairness. The prosecutrix, Zoha, a minor of tender years, provided a sworn ocular account (Ex.5/A) that satisfies the threshold of reliability and particularity mandated in sexual offense cases. Her testimony, explicitly identifying the appellant, detailing the sequence of events (forcible confinement, disrobing, penetrative rape, post-assault cleansing), and recounting repeated violations under threats to murder her sibling, constitutes direct evidence. The narrative's internal coherence, coupled with the victim's ability to withstand cross-examination without material deviation from the core allegation, fulfills the legal standard of sterling credibility. The trial court's reliance on the victim's demeanor evidence, assessed through firsthand observation of her testimonial poise, emotional resonance, and responsiveness under cross-examination, is entitled to deferential review, as appellate courts lack the institutional advantage of witnessing live testimony. The prosecution fortified the victim's account with expert forensic corroboration through the testimony of WMLO Dr. Sidra Tariq (Ex. 10), whose medical findings, specifically, physical indicators consistent with forced penetration, constitute indirect evidence. The WMLO's conclusion that the victim was "subjected to an act of sexual intercourse" derives from objective clinical observations (e.g., genital trauma, hematological evidence), which align with the victim's narrative of pain, bleeding, and post-assault cleansing. The appellant's attempt to discredit this evidence by emphasizing the absence of seminal fluid in DNA analysis reflects a flawed understanding of forensic pathology. The degradation or absence of biological evidence is neither exculpatory nor atypical in cases involving delayed reporting, repeated assaults, or post-incident hygiene measures. Medical jurisprudence recognizes that the presence of hymenal injuries, even without seminal residue, is sufficient to corroborate penetrative sexual violence, particularly in minors.

9. The appellant's emphasis on alleged "discrepancies," "material contradictions," and "lack of corroboration" in the prosecution's case reflects a fundamental misapprehension of the jurisprudential principles governing the evaluation of testimonial evidence, particularly in cases involving traumatized minors. A rigorous deconstruction of these contentions reveals their inherent frailty when measured against the doctrinal standards of evidentiary scrutiny applicable to sexual offenses. The appellant's reliance on omissions in the

victim's Section 161 and 164 Cr.P.C. statements, such as the absence of references to the removal of clothing, specific dates, or a cigarette burn, ignores the well-established principle that human memory under trauma is reconstructive, not photographic. Cognitive medico legal science and legal precedent recognize that victims of severe psychological distress often prioritize recalling the core traumatic event over peripheral details, which may fade or fragment over time. The doctrine of "substantive consistency" dictates that minor inconsistencies in non-essential particulars (e.g., dates, sequence of ancillary acts) do not vitiate the credibility of the central allegation provided the gravamen of the offense remains unshaken.

10. The victim's use of the colloquial term "badtamizi" (misconduct) in her Section 164 Cr.P.C. statement, rather than legally precise terminology such as "Zina" or "Ziadi" (assault), is neither exculpatory nor indicative of fabrication. This aligns with the principle of developmentally appropriate language, which acknowledges that minors, particularly those from socioeconomically disadvantaged backgrounds, lack the semantic sophistication to articulate violations in juridical terms. The law imposes no obligation on child victims to conform their testimony to legal lexicons; rather, courts are bound to adopt a contextual and purposive interpretation of their statements. The victim's explicit elaboration of the sexual assault during her courtroom testimony (Ex.5) dispels any ambiguity, rendering the appellant's semantic critique a pedantic distraction. For child witnesses, courts apply an even more deferential standard, recognizing that the stress of courtroom proceedings, coupled with developmental immaturity, may impede flawless recall. The presumption of veracity accorded to minors in sexual offense cases mandates that their testimony be assessed for overall plausibility rather than subjected to atomized scrutiny. The appellant's assertion of a "lack of corroboration" misconstrues the legal threshold for conviction in sexual assault cases. While independent corroboration is prudentially valued, it is not an absolute prerequisite under Pakistani law. The victim's testimony, if found inherently credible and consistent on material particulars, suffices to sustain a conviction. The defense's critique overlooks the neuropsychological impact of trauma on memory encoding and retrieval. Victims of prolonged abuse, particularly minors, often exhibit fragmented or non-linear recall due to the effects of chronic stress on hippocampal function. The absence of specific details in initial statements may paradoxically enhance credibility, as it reflects the authentic disorganization of traumatic memory rather than a rehearsed narrative. Courts are duty-bound to account for these dynamics under the "trauma-informed

approach” to evidence assessment, which rejects rigid conformity to timelines or peripheral particulars.

11. The victim’s delayed disclosure, predicated on the appellant’s continuous threats of lethal retaliation against her sibling, constitutes a compelling and legally cognizable justification under the doctrine of coercive control, a paradigm recognized in modern jurisprudence to account for the psychological dynamics of abuse. This explanation is not merely plausible but carries presumptive validity in cases involving minors subjected to sexual violence by custodial figures, as it aligns with the tripartite test for delayed reporting established in sexual offense jurisprudence: (i) the existence of a hierarchical power imbalance (appellant as paternal uncle/guardian), (ii) the credibility of the threat (repeated menace to murder a vulnerable sibling i.e. her sister Haya), and (iii) the victim’s subjective belief in the immediacy of harm, which collectively create a climate of terror sufficient to paralyze disclosure. The appellant’s dual role as a fiduciary caregiver and perpetrator exacerbated the victim’s entrapment, leveraging familial trust to enforce silence, a tactic classified in forensic psychology as betrayal trauma." This dynamic satisfies the "reasonable fear" which excuses delayed reporting when threats are directed not only at the victim but also at proximate third parties, particularly dependents. The victim’s eventual disclosure to her Bhabhi (sister-in-law) upon achieving physical and psychological distance from the appellant’s coercive environment further corroborates the authenticity of her account, as it reflects the trauma-informed principle of "safe disclosure," wherein victims confide only when external protections neutralize perceived risks. The victim’s initial silence and delayed reporting are rationally explained by the appellant’s continual threats to murder her sibling, a coercive tactic that creates a climate of fear recognized in psychological literature on child sexual abuse. This intimidation continuum negates any adverse inference from the temporal gap between the abuse and disclosure, as the law does not demand immediate reporting from traumatized minors who reasonably perceive imminent danger to themselves or others. The defense’s implicit suggestion that delayed reporting undermines credibility is antithetical to the presumption of continuity in coercive influence, a doctrine mandating courts to presume that threats persist until objectively disproven. The victim’s narrative, detailing how threats were reiterated even after her aunt’s return, demonstrates a pattern of sustained intimidation, negating any presumption of voluntary silence. This aligns with the "intimidation continuum" theory, which posits that fear induced by an abuser’s threats does not dissipate merely due to temporal gaps but endures until affirmatively disrupted by external intervention. Moreover, the victim’s age

(13/14 years) and developmental stage render her particularly susceptible to coercive persuasion, as minors lack the cognitive autonomy to weigh risks independently or defy authority figures. This developmental vulnerability is compounded by the appellant's exploitation of kinship bonds, an aggravating factor which prescribes enhanced penalties for custodial sexual violence. The law recognizes that threats against a sibling, a proximate and emotionally irreplaceable relation, carry unique imperative force in silencing child victims, as they weaponize the victim's protective instincts to ensure compliance. The trial court's acceptance of this explanation reflects a nuanced application of the "totality of circumstances" test, which evaluates delayed disclosure through an intersectional lens of age, power dynamics, and threat credibility. To demand instantaneous reporting under such conditions would impose a legally untenable burden on minors, effectively privileging procedural formalism over substantive justice. The victim's eventual disclosure, when contextualized within her gradual escape from the appellant's dominion, thus forms a corroborative nexus with her core testimony, reinforcing rather than diminishing its probative value.

12. The appellant's reliance on the absence of seminal material in the DNA report and the purported "normalcy" of ancillary medical findings reflects a fundamental misapprehension of forensic science, medical jurisprudence, and the evidentiary standards governing sexual assault cases. A rigorous deconstruction of these contentions reveals their inherent frailty when scrutinized through the prism of scientific validity, statutory presumptions, and the doctrine of harmonious construction of evidence. The appellant's emphasis on the negative DNA report (Ex. 10/F) disregards the axiomatic principle in forensic pathology that the absence of evidence is not evidence of absence. Seminal fluid's non-detection is neither exculpatory nor anomalous, as it is contingent upon variables extrinsic to the act of sexual intercourse: Non-Ejaculatory Contact: Penetration without ejaculation, a medically recognized occurrence, leaves no seminal residue, yet satisfies the actus reus. The victim's testimony of post-assault cleansing, coupled with the 15-day delay between the final abuse and medical examination, aligns with the half-life degradation of seminal enzymes (e.g., acid phosphatase), rendering biological evidence undetectable. Repeated penetrative acts as deposited by the victim cause micro-trauma to vaginal epithelium which may shed residual DNA over time, particularly in minors with underdeveloped genital tissues. The appellant's argument conflates forensic possibility with legal sufficiency, ignoring the principle that rape is established by penetration, not ejaculation. The WMLO's conclusion (Ex.10/B) that the victim was "subjected to sexual intercourse" is predicated on objective physical indicators, including the torn hymen, a finding of

paramount significance in minors. Under the Qanun-e-Shahadat Order, 1984, expert medical opinion carries presumptive weight unless rebutted by contrary scientific evidence, which the appellant failed to adduce. The hymenal injury, when viewed through the lens of pediatric forensic medicine, is pathognomonic of penetrative trauma, particularly in prepubescent or adolescent victims. The trial court's reliance on this finding adheres to the doctrine of *res ipsa loquitur* (the thing speaks for itself), as hymenal tears in non-consensual contexts are inherently indicative of sexual violence unless proved otherwise. The appellant's reductionist critique, that the court over-relied on this single finding, ignores the synergy between medical and testimonial evidence. The appellant's emphasis on "normal" ultrasound, urine, and vaginal MLC findings betrays a misunderstanding of their diagnostic scope. Ultrasound excludes structural anomalies or pregnancy but does not negate penetration. Urine Analysis screens for infections, irrelevant to proving sexual assault. The absence of acute injuries (e.g., lacerations) is common in chronic abuse cases, where tissues adapt to repeated trauma. These tests, while procedurally prudent, are ancillary to the core issue of penetration. Their "normal" results neither contradict the victim's account nor undermine the WMLO's findings, as rape does not invariably manifest in acute physical trauma. So far, the contention about DNA is concerned the prolonged interval between the last act of abuse and the medical examination (compounded by the victim's disclosure delay) inherently diminishes the likelihood of detecting seminal material. Forensic science recognizes that: DNA Degradation i.e. Seminal fluid deteriorates rapidly post-coitus, particularly in humid climates, often becoming undetectable within 72 hours. Vaginal mucosa regenerates every 3/4 days, shedding residual epithelial cells containing potential DNA evidence. The appellant's failure to account for these biological inevitabilities renders his critique speculative and devoid of scientific grounding. The trial court's analysis exemplifies the doctrine of proportionate weighing, wherein the WMLO's opinion and hymenal injury were accorded primacy as direct correlates of penetration, while ancillary tests were relegated to their proper evidentiary sphere. This approach aligns with the Daubert Standard (as persuasive authority), which prioritizes methodologically sound expert testimony over isolated negative findings.

13. The appellant's allegations of "mala fide intention," "fabricated case," "property dispute," and "biased investigation" constitute a mosaic of conclusory assertions devoid of evidentiary substantiation, failing to meet the stringent threshold required to impeach the prosecution's case. These contentions, rooted in speculative inference rather than probative proof, collapse under scrutiny when

evaluated through the prism of evidentiary burden, presumption of official regularity, and the credibility hierarchy established by the trial court. The defense's theory of false implication premised on a purported property dispute between the appellant's wife (Saeeda Khanam) and the complainant (Gul Muhammad) is a classic *argumentum ad speculum* (argument to the mirror), reflecting mere conjecture. The victim's categorical denial of any such dispute during cross-examination (Ex.5) dismantles this narrative, as does the defense's failure to adduce documentary corroboration (e.g., land records, partition suits, or prior litigation) to anchor its claims. In the absence of such evidence, the allegation remains a bare assertion, insufficient to discharge the *onus probandi* under the Qanun-e-Shahadat Order, 1984, which mandates that parties alleging *mala fide* must prove it through clear and convincing evidence. The appellant's insinuation of investigative bias orchestrated by PW ASI Anees ur Rehman and Mst. Shehla is negated by the presumption of regularity enshrined in Article 129, illustration (e) of the Qanun-e-Shahadat Order 1984, which presumes that official acts are performed lawfully in absence of contrary proof. The investigation, conducted by PI Manzoor Hussain Shah, whose testimony remained unshaken during cross-examination, adhered to procedural norms under Sections 154–173 Cr.P.C. The defense's reliance on tangential facts (e.g., Mst. Shehla's suicide, ASI Anees ur Rehman's second marriage) constitutes guilt by association, a fallacy that conflates personal circumstances with professional impropriety without establishing a causal nexus to the investigation's integrity. The trial court's preference for the victim's un-impeached testimony over the defense's uncorroborated allegations exemplifies the credibility-centered adjudicative approach mandated in sexual offense cases. DW-1 (Mst. Saeeda Khanum), the appellant's wife, proffered testimony that was inherently self-serving and lacked independent corroboration, rendering it insufficient to rebut the prosecution's case. Appellate courts, under the doctrine of deference to factual findings, cannot substitute their subjective assessments for the trial court's firsthand evaluation of witness demeanor, particularly when no patent perversity or jurisdictional error is demonstrated. Allegations of *mala fide*, being grave in nature, demand a heightened evidentiary standard akin to clear and convincing proof. The defense's failure to adduce even *prima facie* evidence of conspiracy, such as call records, financial transactions, or witness testimony linking the complainant and investigators to ulterior motives, leaves its allegations in the realm of theoretical possibility, insufficient to meet the probative threshold under the Qanun-e-Shahadat. Even assuming *arguendo* that a property dispute existed, the defense's inability to demonstrate its material relevance to the victim's allegations of sexual

assault renders the argument immaterial. Familial discord, without more, cannot *ipso facto* invalidate a victim's sworn testimony, particularly when the defense fails to establish a motive for fabrication through specific, tangible evidence.

14. The appellant's contention regarding the absence of eyewitnesses to the alleged sexual assault betrays a jurisprudential misapprehension of the nature, dynamics, and evidentiary standards governing crimes of sexual violence. This argument, rooted in a regressive insistence on archaic evidentiary norms, ignores the doctrine of inherent secrecy that pervades sexual offenses, as well as the progressive legal frameworks designed to protect victims from systemic re-traumatization. A deconstruction of this ground reveals its un-tenability under contemporary criminal jurisprudence. Sexual assault, by its very definition under Section 375 of the Pakistan Penal Code, is perpetrated in environments of isolation and coercion, deliberately shielded from public scrutiny. To demand eyewitness testimony in such cases is not only unrealistic but antithetical to the principle of access to justice, as it would institutionalize impunity for perpetrators who exploit privacy to evade accountability. The doctrine of *res ipsa loquitur* (the act speaks for itself) applies here: the clandestine nature of the crime is itself evidence of its commission, negating the necessity for third-party observers. The prosecution's case rests on the solemn and consistent testimony of the victim, which satisfies the threshold of evidentiary sufficiency under Qanun-e-Shahadat Order, 1984. Jurisprudence has long recognized that the victim's account, when credible, detailed, and corroborated by circumstantial or medical evidence, constitutes substantive proof of the offense. The appellant's argument conflates the absence of eyewitnesses with the absence of evidence, a fallacy dismantled by the doctrine of moral certainty, which permits convictions based on the victim's testimony alone if it inspires unshaken confidence. In the case of *Khuram Shahzad vs The State* (PLD 2012 FSC 1), it was held that: "Sole testimony of a victim is enough for conviction, if it is truthful and inspires confidence." In the case of *Muhammad Mansha vs The State* (2001 SCMR 199) Division Bench of Hon'ble Supreme Court observed as under:

"We also have the benefit of consulting C.D. Field on the Law of Evidence (page 4746) wherein it was observed as follows: --

"Thus, evidence of a single witness is sufficient to sustain and may legally be made the sole basis for a conviction, the relevant section 134 having enshrined the well-recognized maxim that 'evidence has to be weighed and not counted'. Though the Legislature has placed no jurisdictional limitation on the power of a Judge to act on the sole testimony of a single witness, even though uncorroborated, the Judges themselves have from time to time evolved some rules and guidelines of circumspection as to when such evidence can be or cannot be acted upon without corroboration." (Pema Dukpa v. State Sikkim, 1981 Cr. LJ 276).

15. It may not be out of place to mention here that Law of Evidence (I of 1872) and Qanun-e-Shahadat Order, 1984, have excluded the well-entrenched principle remained applicable for decades that "unus nullus" (one is equal to none) and is no, more enforced hence cannot be taken into consideration. The only criterion which can be fixed seems to be that "in order that the sole testimony of a witness is made the foundation and the basis for finding a person guilty of the charge, the evidence must be clear, cogent and consistent and should be of an unimpeachable character." (1982) 53 Cut. LT 368 at p.370)

16. The significance of the statement of solitary witness has also been examined in numerous cases and a few important therefrom are mentioned as follows:

1980 PCr.LJ 898, PLD 1980 SC 225, 1971 SCMR 659, 1969 SCMR 76, 1998 PCr.LJ 1441, 1971 SCMR 273, 1971 SCMR 530, 1995 SCMR 1979, PLD 1980 SC 225, PLJ 1980 SC 492, 1993 SCMR 2405, NLR 1985 Cr. 501, AIR 1936 Lah. 778, PLD 1957 SC (Ind.) 525, 1971 SCMR 273 and 1972 SCMR 620.

A careful examination of the dictums as lay down in the above referred authorities the consensus seems to be that conviction can be awarded on the basis of solitary statement of a witness if it is found worthy of credence, dependable and consistent”

17. The appellant’s invocation of the “benefit of doubt” as a talismanic shield against culpability misapprehends the jurisprudential essence of this doctrine. While the presumption of innocence mandates that doubts endure to the accused’s benefit, such doubts must be cogent, tangible, and rooted in evidentiary lacunae, not speculative conjectures or forensic nitpicking. The shadow of doubt alluded to by the appellant is a mirage, conjured from immaterial variances and discredited hypotheses. Here, the prosecution established: Actus Reus: Penetrative sexual intercourse through the victim’s testimony and hymnal injury (Ex. 10); Mens Rea: The appellant’s intentional acts, evidenced by threats and repeated abuse; Identity: The victim’s unequivocal identification of the appellant as her abuser. The appellant’s “peculiar facts” neither negate these elements nor introduce alternate hypotheses of innocence. To grant the benefit of doubt on such flimsy grounds would subvert the constitutional mandate under Article 35 to protect children from exploitation and erode public confidence in the justice system. In the case of State vs. Mushtaq Ahmad (PLD 1973 SC 418), Supreme Court held that: "Law allows to persons accused of criminal offences the benefit of 'reasonable' and not of imaginary doubts. What is reasonable doubt is not a question of law: it is

essentially a question for human judgment by a prudent person to be found in each case, in the light of day-to-day experience in life, after, "taking in account fully all the facts and circumstance appearing on the entire record". It is the antithesis of a haphazard approach or reaching a fitful decision in a case". Same view was followed by the Larger Bench of the Hon'ble Court in the case of Nur Begum vs Muhammad Hussain & others (1974 SCMR 215). In the case of Niaz vs. State PLJ 1997 Cr.C (Lahore) 1396, it was observed that: All sorts of doubt fanciful, strange and baseless are hardly reasonably doubts, on the basis of which any benefit might flow-or Courts will take into consideration. Doubts which are real, genuine, well founded, which a normal man with normal intelligence in a given circumstances would naturally harbor, are doubts that come within the fold of 'reasonable doubt' entitling one to the benefit thereof. Such doubts are normal in a normal man, which should never be equated with the abnormal fear of an imbecile, indecisive or a timid fellow. Very aptly an eminent Judge as expressed it thus, "It is not a doubt of a vacillating mind that has no normal courage to decide but shelters itself in a vain and idle skepticism." In the case of Krishna Mochi & Ors v. State of Bihar: (2002) 6 SCC 81, Indian Supreme Court held as under:

"32. Now the maxim "let hundred guilty persons be acquitted, but not a single innocent be convicted" is, in practice, changing the world over and courts have been compelled to accept that "society suffers by wrong convictions and it equally suffers by wrong acquittals". I find that this Court in recent times has conscientiously taken notice of these facts from time to time. In the case Inder Singh v. State (Delhi Admn.): (1978) 4 SCC 161: 1978 SCC (Cri) 564: AIR 1978 SC 1091 Krishna Iyer, J laid down that (SCC p.162, para 2) "Proof beyond reasonable doubt is a guideline, not a fetish and guilty man cannot get away with it because truth suffers from infirmity when projected through human processes." In the case of the State of U.P. v. Anil Singh: 1988 Supp SCC 686: 1989 SCC (Cri) Supp SCC 686: 1989 SCC (Cri) 48: AIR 1988 SC 1998 it was held that a Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. One is as important as the other. Both are public duties which the Judge has to perform. In the case of State of W.B. v. Orilal Jaiswal: (1994) 1 SCC 73: 1994 SCC (Cri) 107 it was held that justice cannot be made sterile on the plea that it is better to let a hundred guilty escape than punish an innocent. Letting the guilty escape is not doing justice, according to law. In the case of Mohan Singh v. State of M.P.: (1999) 2 SCC 428: 1999 SCC (Cri) 261: (1999) 1 SCR 276 it was held that the courts have been removing chaff from the grain. It has to disperse the suspicious cloud and dust out the smear of dust as all these things clog the very truth. So long chaff, cloud and dust remain, the criminals are clothed with this protective layer to receive the benefit of doubt. So, it is a solemn duty of the courts, not to merely conclude and leave the case the moment suspicions are created. It is the onerous duty of the court, within permissible limit to find out the truth. It means, on one hand no innocent man should be punished but on the other hand to see no person

committing an offence should get Scot free. If in spite of such effort suspicion is not dissolved, it remains writ at large, benefit of doubt has to be credited to the accused.”

18. The trial court’s verdict rests on an unassailable evidentiary edifice: Victim’s Testimony: A minor’s consistent, unwavering account of abuse, assessed under the sterling credibility standard (Article 3 of the Qanun-e-Shahadat Order, 1984); Medical Corroboration: The WMLO’s opinion (Ex.10) and hymnal injury satisfy the doctrine of corroboration by material particulars; Circumstantial Evidence: Threats, exclusive opportunity, and delayed disclosure explicable by coercive control dynamics. This tripartite convergence of proof leaves no room for doubt, fulfilling the prosecutorial burden. The conviction of the appellant epitomizes the judicious application of evidentiary principles, the primacy of substantive justice, and the constitutional imperative to safeguard vulnerable minors from exploitation. The trial court’s verdict, grounded in a holistic appraisal of testimonial, medical, and circumstantial evidence, adheres to the golden thread of justice enshrined in Article 10-A of the Constitution (right to a fair trial) and Article 35 (protection of children). The imposition of rigorous life imprisonment under Section 376(3) PPC, coupled with a fine and the benefit of Section 382-B Cr.P.C. (sentence adjustment for pre-trial detention), reflects a calibrated balance between retribution, deterrence, and societal condemnation of custodial sexual violence.

19. In view of the foregoing discussion, this Court finds that the learned trial Court has meticulously appreciated the evidence on record, properly applied the settled principles of law, and reached a just and well-reasoned conclusion. The testimony of the prosecutrix, a minor, is found to be cogent, trustworthy, and confidence-inspiring. It stands duly corroborated by the medical evidence. Any perceived discrepancies or omissions in her account have been reasonably explained and are consistent with the psychological and emotional behavior of a child subjected to sexual abuse. The learned counsel for the appellant, despite his comprehensive submissions, has failed to point out any material irregularity, misreading, or non-reading of evidence warranting interference by this Court. The cumulative effect of the prosecution evidence establishes the guilt of the appellant beyond reasonable doubt. The conviction recorded by the learned trial Court is well-founded, and the sentence awarded is proportionate to the gravity of the offence committed.

20. In light of the above, this appeal is devoid of merit and is accordingly dismissed. The judgment dated 27.08.2024, passed by the learned Xth Additional Sessions Judge, Karachi West, in Sessions Case No.2153/2023, is hereby maintained. The appellant, Umar Farooq, shall continue to undergo the sentence awarded by the trial Court. Let the record of the case be remitted to the learned trial Court.

J U D G E