

**IN THE HIGH COURT OF SINDH KARACHI**  
**Criminal Jail Appeal No.733 & 584 of 2024**

Appellants : i. Ghulam Rasool son of Shamsuddin  
ii. Mst. Zaiba @ Naseem w/o Ghulam Rasool  
Through Mr. Amir Nazeer Shaikh,  
Advocate

Complainant : Muhammad Idrees  
Through Mr. Basam Ali Dahri, Advocate

Respondent : The State  
Through Ms. Najma Latif Golo, APG

Date of hearing : 13.05.2026  
Date of decision : 20.05.2026

**JUDGMENT**

**MIRAN MUHAMMAD SHAH, J:-** By this single judgment, I intend to dispose of the above-captioned two criminal appeals, as both arise out of the same impugned judgment.

2. Through the instant Criminal Appeals, the appellants, Ghulam Rasool son of Shamsuddin and Mst. Zaiba @ Nasem wife of Ghulam Rasool, have challenged the judgment dated 30.07.2024, passed by the learned Additional Sessions Judge-III, Karachi South, in Sessions Case No.2290/2020 [*The State v. Zaiba & another*], arising out of FIR No.355/2020 registered at Police Station Saddar, Karachi South, under Sections 364-A, 337-J and 376 PPC, whereby the learned trial Court convicted and sentenced the appellants under Section 265-H(2) Cr.P.C. as follows:-

1. Accused Ghulam Rasool and co-accused Zaiba alias Naseem are convicted for committing offence of kidnapping U/s 364-A PPC and sentenced to undergo R.I for 07 (Seven) years.
2. Accused Ghulam Rasool is convicted for committing of rape U/s 376 PPC and sentenced to undergo R.I for 10 (Ten) years and to pay fine of Rs.1,00,000/-. In default of payment of fine, he shall undergo S.I for 06 (Six) months more.
3. Accused Zaiba alias Naseem is convicted for the offence of abetment of commission of rape punishable under section 109 PPC and sentenced to undergo R.I for 10 (Ten) years and to pay fine of

Rs.1,00,000/. In default of payment of fine, she shall undergo S.I for 06 (Six) months more.

All the sentences were ordered to run concurrently and benefit of section 382-B Cr.P.C was extended to both the appellants/accused.

3. During pendency of these appeals before this Court, one of the appellants, namely Ghulam Rasool, was released from prison after serving out his sentence as well as obtaining the remissions for which he was legally entitled. However, the co-accused/appellant, Mst. Zaiba, wife of Ghulam Rasool, is still confined in jail. According to the latest Jail Roll, the unexpired portion of her sentence, as of 11.05.2026, i.e., two days prior to the hearing of these appeals, was one year, nine months and twenty-six days.

4. Learned APG raised an objection that the conviction and sentence awarded to the present appellants were lesser than those prescribed under the law. He contended that the learned trial Court could not have awarded such lesser conviction and sentence, which do not sustain in the eye of law. According to him, the matter requires retrial and remand to the learned trial Court so that appropriate conviction and sentence, in accordance with law, may be awarded to the appellants.

5. On the other hand, learned counsel for the appellants based his arguments upon the judgment reported as 2024 P.Cr.L.J. 1610, passed by a learned Divisional Bench of this Court, wherein it was held as follows:-

“16. As per FIR, the alleged offence was committed on 12.01.2021. The charge was framed by the trial Court on 04.06.2021. The Special Courts under the Act of 2021 were notified in the province of Sindh on 11.10.2022. The impugned judgment was passed on 19.01.2023. Meaning thereby, on the day of Notification of Special Courts under the Act of 2021, the trial of scheduled offence of the Act of 2021 was pending in the ATC, which ought to have been transferred to the Special Court having jurisdiction under the Act of 2021 i.e. Additional District and Sessions Judge-V, Malir, which has the territorial jurisdiction to try the alleged offence as per Notification (supra).

17. For the foregoing facts, discussion and reasons, we are of the considered view that since the Trial Court i.e. Anti-Terrorism Court No. IV. Karachi Division had no jurisdiction to try the case;

the appellants could not be tried, convicted and sentenced by it. Accordingly, the conviction and sentence awarded under the impugned judgment is set-aside with direction to Trial Court to transfer the case to Special Court established and notified under the Act of 2021, having territorial jurisdiction of District Malir for trial in accordance with law. The appellants were on bail before the Trial Court on the date of passing of impugned judgment; they may file bail application(s) before the transferee Special Court, which shall be decided on its own merit.”

6. In the present matter, as per the FIR, the alleged offence was committed on 06.09.2020 and charge was framed by the learned trial Court on 03.03.2021. Subsequently, the Anti-Rape (Investigation and Trial) Act, 2021 was enacted by the Federal Government and came into force on 11.10.2022. Under Section 3(3) of the said Act, the Federal Government, in consultation with the Honourable Chief Justice of the High Court of Sindh, notified Special Courts in the Province of Sindh on 11.10.2022. The impugned judgment, however, was passed on 30.07.2024. Thus, on the date when the Special Courts were notified under the Act of 2021, the trial was admittedly pending before an ordinary Court, which ought to have been transferred to the Special Court having jurisdiction under the Anti-Rape (Investigation and Trial) Act, 2021, i.e., the Court of learned Additional District and Sessions Judge-III, Karachi South, which have territorial jurisdiction to try the alleged offence in terms of the notification. Although the learned trial Court itself was subsequently vested with the jurisdiction of a Special Court for Karachi South, but did not convert the regular sessions case into a case under the special jurisdiction conferred by the Act of 2021, nor a fresh charge was framed against the appellants in the capacity of Special Judge after enactment of the special law. Instead, the learned trial Court continued and concluded the proceedings in its ordinary jurisdiction. Consequently, the impugned judgment passed by the learned trial Court is void and without lawful authority. In this regard, reliance is also placed upon the judgment of this court reported as SBLR 2026 Sindh 1038, the relevant paragraph of the same is reproduced herein below:–

“6. Even on the legal aspect reliance is placed on the dicta laid down by the Hon'ble Supreme Court in 2013 SCMR 338, wherein it was held that:-

"It is a settled law that any forum or court, which if lacks jurisdiction adjudication and decides a matter, such decision etc. shall be void and of no legal effect."

So also reliance is also placed on an unreported judgment of this Court in Criminal Revision Application No.S-38 of 2020, wherein it has been held in paragraph No.12 as under:-

"It is observed that when the law required that a particular procedure must be followed, its non-compliance would create numerous complications. Any action performed, however, honestly, but in violation of statutory provisions, would damage the end result. It is further observed that the things required to be done in a particular manner should be done in that manner and if anything was done contrary to that then same should be deemed to have not been done at all."

7. In view of the law laid down in the cases referred above, the conviction and sentences awarded to the appellants through the impugned judgment dated 30.07.2024, passed by the learned Additional Sessions Judge-III, Karachi in Sessions Case No. 2290/2020 [The State vs Zaiba and another] are hereby set aside. The learned trial Court is directed to transfer the case to the Special Court established and notified under the Anti-Rape (Investigation and Trial) Act, 2021, having territorial jurisdiction in District South, for conducting the trial strictly in accordance with law. The Special Court shall proceed further in accordance with the prescribed procedure against appellant Ghulam Rasool son of Shamsuddin, who is stated to have already served out his sentence and has been released from the jail. So far as appellant Mst. Zaiba @ Naseem is concerned, she is ordered to be released subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) to the satisfaction of the learned trial Court.

These appeals stand disposed of in the above terms.

Office is directed to place assigned copy of this order in the captioned connected matter.

**JUDGE**

