

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Omar Sial**

**Mr. Justice Shamsuddin Abbasi**

**Criminal Appeal No.947 of 2025**

*(Muhammad Sajid vs. the State)*

**Criminal Appeal No.949 of 2025**

*(Sajid and 2 others vs. the State)*

**Criminal Appeal No.953 of 2025**

*(Rehan vs. the State)*

Mr. Arshad Hussain Bhutta & Asad Hussain,  
advocates for appellant in Cr. Appeal No.947/2025

Mr. Shakeel Ahmed, advocate for appellant in Crl.  
Appeal No.949/2025

Mr. Abdul Basit, advocate for appellant in Crl.  
Appeal No.953/2025

Mr. Muhammad Iqbal Awan, Additional Prosecutor  
General Sindh

Mr. Basam Ali Dahri, advocate for complainant

Date of hearing: 26.03.2026

Date of Judgment: 15.04.2026

## **JUDGMENT**

**Omar Sial, J.**: On 19.05.2024, Asif Shaikhani reported to the Bahadurabad police that Ali, Shahbaz, Sajid, Ejaz-ul-Haq, and Rehan had, for a period of six months, sexually abused his 14-year-old son Khuzaima Shaikhani. He further alleged that the abuse typically took place at night when his son left the house to purchase household items. When Asif came to the police station, he had himself brought Sajid and Ejaz-ul-Haq with him. Both individuals were arrested. F.I.R. No. 149 of 2024 was registered under sections 377 and 34 P.P.C.

2. At the trial, prosecution examined **PW-1 Khuzaima Shaikhani** (the alleged victim); **PW-2 Muhammad Asif**

**Shaikhani** (Khuzaima's father and the complainant); **PW-3 Muhammad Shakir** (investigating officer); **PW-4 Dr. Noor Ahmed Soomro** (the doctor who inspected Khuzaima); **PW-5 S.I. Saqib Ali** (arrested the two accused and registered the F.I.R.); **PW-6 Muhammad Raza Ansari** (the Magistrate who recorded Khuzaima's section 164 statement).

3. In their respective section 342 Cr.P.C. statements, the accused professed innocence and denied any wrongdoing. The learned VIIIth Additional Sessions Judge, Karachi East, on 24.10.2025, convicted Muhammad Sajid, Ejaz-ul-Haque, Sajid, Ali Zaman, Shahbaz, and Rehan for having committed an offence punishable under section 377 P.P.C. and sentenced them to eight years' imprisonment and a fine of Rs.100,000/- each. It is this judgment that has been challenged through this appeal.

4. We have heard the learned counsels for the appellants, the complainant, and the learned Additional Prosecutor General. All counsels agree that the evidence against the accused is solely in the shape of the victim's statement. They also agree that although the accused have been sentenced under section 377 P.P.C. for sodomy, the medical evidence produced at trial does not support this finding. For brevity, the arguments of the learned counsels are not being reproduced but are reflected in our observations and findings below.

5. The most important witness in the case was Khuzaima himself. In fact, there is no other evidence against the appellants but his sole testimony. We have therefore looked at it closely in our reappraisal of the evidence. According to Khuzaima, the series of incidents began approximately five to six months before the F.I.R. was registered. He testified that he would frequently visit his friend to play, and that the accused, **Sajid**, was a security guard there. Allegedly, Sajid sodomised him (Khuzaima) one day. Immediately after this incident, while returning home, Khuzaima encountered the accused, **Shahbaz**, and asked him for a lift. The two came to the street outside

Khuzaima's house and began playing cricket. The ball went into a parking area, and when Khuzaima and Shahbaz went to recover it, Shahbaz sodomised Khuzaima. A couple of months later, when Khuzaima went to buy groceries, he passed a bungalow under construction where the accused, **Ejaz**, worked as a guard. Ejaz sodomised him in a park. Immediately after, Khuzaima encountered the accused, **Rehan**. Rehan caught Khuzaima, took me to a secluded street, and committed a similar assault despite my protest. Two days later, while playing at the home of Arif Lakhani's grandchildren, their security guard, **Ali**, forcibly took Khuzaima to his room and sodomised him on his bed. Khuzaima further alleged that the accused, **Sajid**, picked him up in an Audi, accompanied by **Rehan**, **Shahbaz**, and an **unknown male**. They took Khuzaima to Dhoraji Colony. Sajid brandished a pistol and claimed political affiliations and boasted that the Ferozabad Police Station was under his influence. Sajid then sodomised him inside the vehicle. It is with much respect that we do not find Khuzaima's testimony to be confidence-inspiring, trustworthy, or true.

6. What remained unanswered or explained at trial was how Khuzaima identified the accused. According to his own testimony, he was not acquainted with the accused prior to the incident. According to his father, Asif, it was Khuzaima who had told him the names of all the accused. The record is silent as to how, when, and where he identified them. Admittedly, no identification parade was held after the arrests. Khuzaima claimed that he used to play cricket with a friend, Hassan, and that Sajid was his security guard. Neither Hassan nor anyone from his home was examined to determine whether Sajid was even employed by them. Sajid, a security guard, then subsequently driving an Audi, is rather unbelievable. Khuzaima alleged that Ali sodomised him in the house of Arif Lakhani, but Arif Lakhani too remained absent at trial. The presumption that these two individuals, if examined at trial, would not have supported the prosecution's case will therefore arise. Reference

may be made to Article 129 of the Qanun-e-Shahadat Order, 1984.

7. The prosecution examined Asif Shaikhani (Khuzaima's father) to corroborate Khuzaima's testimony. Asif acknowledged that he became aware on 15.05.2024 that Khuzaima had been sodomised. In his examination-in-chief, he justified the four-day delay in lodging the F.I.R. by saying that he had informed the police, but they would not register an F.I.R. In his cross-examination, he gave a different reason – he said that he went to the police each of the four days, but the S.H.O. was never available. According to him, it was only when he himself caught Sajid and Ejaz and took them to the police station that the F.I.R. was registered. Contrary to what Khuzaima testified, Asif said that the names of all the accused were given to him by Khuzaima. Asif's own testimony is replete with him contradicting himself. There are two memos regarding the inspection of the crime scene dated 19.05.2024. One is for the inspection of Bungalow No. 29, Adamjee Nagar, and the other for A-43, Kathiawar Society. Both memos show that Asif identified both scenes and was present during the inspection. This was also confirmed by PW-3 S.I. Mohamamd Shakir (the investigating officer). However, in his (Asif's) cross-examination, he said: "*I do not know the place where my son was subject to sodomy by the accused persons*". Both memos show that no recovery took place from either house, yet a memo of seizure dated 21.05.2024 states that clothes were recovered from Bungalow No. 29. The prosecution claimed that clothes and bedsheets were recovered from two other premises, i.e., Bungalow No. A-35, Bangalore Town, and Bungalow No. A-58, Adamjee Nagar, but there was no document produced to show that these two locations were even inspected by the investigating officer. Asif, supposedly the witness to the recovery from these houses, admitted in his cross-examination that "*We did not go inside the bungalow.*" Asif also seems to have had a massive memory lapse and replied that he did not recollect what had happened

in response to many questions put to him by the defence. Like his son Khuzaima, Asif's testimony cannot be categorized as confidence-inspiring or trustworthy and cannot be relied upon to sustain a conviction. Doubt that the said premises were ever inspected was magnified when the investigating officer conceded at the trial that he did not inquire who owned the bungalows, or how many rooms were in each. He also did not know who lived in the houses, although he admitted during cross-examination that people were living in them. He conceded that CCTV was installed in the houses; however, he had neither inspected nor seized the relevant footage. The investigating officer who made the memos of seizure of clothes and sheets from the houses he inspected, most remarkably said in his cross-examination, "*it is correct that I did not seize any article from the place of incident.*"

8. The allegation against the accused is that they repeatedly sodomised Khuzaima over a span of six months. The medical report produced by PW-4 Dr. Noor Ahmed, however, opines that there was no indication that the boy had been sodomised. We have considered the aspect that perhaps what Khuzaima wanted to complain about was sexual abuse and not sodomy. Sexual abuse is envisaged in section 377-A P.P.C. However, Khuzaima, in his examination, left little doubt that what he complained about fell within a section 377 P.P.C. offence. The child was treated insensitively during his examination. The court should not have permitted that. Certain questions asked of the child should not have been asked. In its bid to "prove" a case of sodomy, the prosecution was callous. The counsels appearing for the parties at trial also displayed insensitivity during the witness examination procedure. The primary duty to regulate proceedings was the Court's. The Court should have shown greater sensitivity, as a juvenile was involved. The medical evidence brought on record does not reconcile with what the prosecution alleged.

9. Apparent dishonesty and exaggeration in Khuzaima's father's testimony (based entirely on hearsay); a statement, obviously made under great stress, by Khuzaima; a nonexistent investigation; a medical report that did not reconcile with the allegations made; and the absence of important witnesses damaged the prosecution's case. The exaggerated, uncorroborated and unsupported by evidence allegations, had the impact of shrouding the truth in doubt. We are cognizant that the accused are also entitled to equal protection of the law.

10. We are saddened to see that a 14-year-old boy has been put through trauma by the police and his own father. It is obvious that the child has been tutored to say what he has. For no rhyme or reason, he was taken to a Magistrate to record a section 164 Cr.P.C. statement. We have intentionally refrained from delving further into the statement to point out its weaknesses as they relate to the prosecution's case. The investigation conducted was not sensitive to the fact that a juvenile was involved. Looking at the evidence holistically, it is possible that the child and another person, perhaps also a juvenile, were close, and the dynamics between them enraged the father, who cast the net wide and then had his son provide exaggerated and manipulated details. The father himself caught two persons claiming that they had sodomised his son, and he himself brought in the names of the other accused and had them arrested. Misrepresented the manner in which recoveries and arrests were effected. Did nothing for four days after his son allegedly revealed to him what had transpired. He cannot be given any concession on account of apprehension of what society would say, as he himself, through his conduct, has shown absolutely no concern for the well-being of the child by being insensitive to what he should have demanded the child be treated like by the criminal justice system. The parents' failure to notice any odd behavior in their son and their failure to notice any physical, mental, or emotional scar of the trauma the father said that the child had been through casts a negative

light on them. It is a failure of their parenting as well as of the school/madrassa the child attended. It was the father and the investigating officer who weakened the prosecution's case to the point that doubt was created.

11. Given the above, we are of the view that the prosecution was unable to prove its case beyond a reasonable doubt as far as a conviction under section 377 P.P.C. is concerned. The appeal is allowed. They may be released if not required in any other custody case. The appellants are however permanently restrained from contacting the child in any manner till he attains the age of majority. If they are photographed with the child, an appropriate case should be registered against them.

**JUDGE**

**JUDGE**