

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial  
Mr. Shamsuddin Abbasi

## Criminal Appeal No.87 of 2021

Appellant : Muhammad Moosa through M/s.  
Iftikhar Ahmed Shah a/w Muhammad  
Naeem Awan, advocates

Complainant : through Mr. Noor Hussain Jamali,  
advocate

The State : through Mr. Muhammad Iqbal Awan,  
Additional Prosecutor General, Sindh

Date of hearing: 16.04.2026

Date of Judgment: 13.05.2026

## JUDGMENT

**Omar Sial, J.:** On 26.06.2018, when Ali Nawaz Soomro was sitting at home with his relatives, Saleh Mohammad and Abdul Ghani, Soomro's seven-year-old nephew came and told him that while he was returning home with his nine-year-old sister, "A", from their maternal grandfather's house, Mohammad Moosa (the appellant in these proceedings) had forcibly taken "A" into his house. The three men immediately went to Moosa's house, from which they heard A's screams. As the three men broke into the house, Moosa, armed with a pistol, came out and made his escape. A partially naked "A" was found inside the room. She was dressed and taken to the police station, from where a medical treatment letter was issued, and "A" was taken to a Rural Health Clinic, where she was examined. The next day, i.e., on 27.06.2018, F.I.R. No. 18 of 2018 was registered under section 376 P.P.C. at the Jhoke Sharif police station on Ali Nawaz Soomro's complaint. Mohammad Moosa was arrested on 27.06.2018.

2. Moosa pleaded not guilty and claimed to be tried. At the trial, the prosecution examined **PW-1 Ali Nawaz Soomro** (the victim's

father and the complainant in the case); **PW-2 “A”** (the survivor/victim); **PW-3 Abdul Ghani** (eyewitness to what transpired at Moosa’s house when “A” was rescued); **PW-4 Dr. Zarina Soomro** (the medical doctor who examined “A”); **PW-5 Dr. Sardar Ali** (the medical doctor who examined the accused and took sperm samples); **PW-6 Zulfiqar Ali** (witness to the inspection of the crime scene and Moosa’s arrest, also **PW-7 Inspector Rab Nawaz**, the second investigating officer. The first one, A.S.I. Karam Ali Chandio had died by then).

3. In his section 342 Cr.P.C. statement, Moosa, while absolving himself of all wrongdoing, stated that all the prosecution witnesses had conspired against him to register this false case. He stated that the complainant party was unhappy with him because he had previously married Ali Nawaz Soomro’s aunt, whom he had subsequently divorced.

4. The learned Additional Sessions Judge, Sujawal/GBV Court, Thatta, on 21.01.2021, convicted Moosa for an offense punishable under section 376 P.P.C. and sentenced him to life imprisonment. It is this judgment that Moosa has challenged in this appeal.

5. Mr. Iftikhar Shah, the appellant’s learned counsel, has stressed heavily that the medical evidence produced at the trial creates doubt regarding the authenticity of the case. We have closely analyzed this aspect in our re-appraisal of the evidence. The learned Additional Prosecutor General has supported the impugned judgment and has vehemently argued that no leniency can be shown to Moosa. Our observations and findings are as follows.

6. The F.I.R. records that “A” was raped. Indeed, the charge against Moosa and the trial court’s judgment also show that he was tried for and sentenced for an offense under section 376 P.P.C. It would facilitate reference if Section 376 P.P.C. is reproduced. The section states as follows:

**376. Punishment for rape.**\_\_\_ (1) *Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five years or for imprisonment for the remainder of his natural life, and shall also be liable to a fine.*

Admittedly, "A" was a minor at the relevant time, and therefore, it would be section 376(3) P.P.C., which would come into play. This sub-section provides that:

*(3) Whoever commits rape of a minor or a person with mental or physical disability shall be punished with death or imprisonment for life and a fine.*

7. PW-4 Dr. Zarina Soomro, to whom "A" was taken for examination, the very same day the offense was committed. In her testimony, Dr. Soomro said that (a) she found no injury on "A" body externally, (b) there were blood stains on the vagina, which was also bleeding internally (c) the hymen was absent and one tear present (d) internal and external vaginal swabs were taken (e) the clothes "A" wore were also seized and sent for chemical analysis. Dr. Soomro issued a provisional medical report on 27.06.2018, reserving her opinion until the chemical analyst's report on the vaginal swabs and clothes was received. The samples were sent by Dr. Soomro to the investigating officer, with her cover letter to the chemical analyst, for deposit at the laboratory on 27.06.2018. However, the chemical analysts' report shows that the samples were received by it on 03.07.2018.

8. The chemical analysts' report dated 03.08.2018 opined that (a) human sperm was detected from "A"'s shalwar, (b) from an internal vaginal swab, and (c) from Moosa's shalwar. The semen group could not be determined due to insufficient or decomposed material. Based on the report, Dr. Soomro opined in the Final Medical Certificate she issued on 16.08.2018 that "A" had been raped.

9. It was when the appellant's section 342 Cr.P.C. statement was being recorded that a DNA Report dated 04.10.2018 was put on record. This report showed that the following items were sent for DNA analysis: (a) "A"'s clothes, (b) "A"'s blood sample, (c) Moosa's clothes, and (d) Moosa's blood sample. The DNA report concludes that "A"'s clothes did not contain any male DNA/sperm fraction. The learned counsel has stressed that the observations made by the chemical analyst and the DNA experts did not match to the extent

that the chemical analyst concluded that semen stains were present on “A”’s shalwar, whereas the DNA experts say there was none. It is an admitted position, however, that the DNA report was not admitted as evidence as the appellant declined to be examined on oath, and he himself withdrew a section 540 Cr.P.C. application praying that the doctors who issued the report be summoned. We are of the opinion that the discrepancy in the reports is not of such a nature as to detract from the truth of the allegations made. Even if no sperm was found, it must not be forgotten that the Pakistan Penal Code in section 375, sub-section (b) and (c), includes within the definition of rape (i) insertion, to any extent, of any object or a part of the body, not being the penis, into the vagina, the urethra or anus of B or makes B to do so with A or any other person; or (ii) manipulation of any part of the body of B so as to cause penetration into the vagina, urethra, anus or any part of body of B or makes B to do so with A or any other person. The medical report shows that an object or an organ was inserted into a minor. We also find it difficult to believe Moosa’s defense that the false rape allegation was made because Moosa had divorced the complainant’s aunt.

10. We are not happy with the fact that a digital insertion was made in the victim by the doctor. The procedure followed to verify virginity was an outdated, rejected and deprecated one. The medico-legal doctors are encouraged to revisit the judgment of the Honorable Lahore High Court in the case of Sadaf Aziz and others v. Federation of Pakistan and others (2021 P Cr. L J 205) and update the procedures they follow to ensure that a dignity of any person, let alone a victim of sexual abuse, is stringently protected.

11. All steps were taken promptly by the complainant; no cogent reason was given for a false accusation; medical report supported the allegation; witnesses corroborated each other; the victim’s testimony had a ring of truth to it. We find no reason to interfere with the learned trial court’s judgment. The appeal is therefore dismissed.

**JUDGE**

**JUDGE**