

IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE-X. KARACHI WEST  
BEFORE: MR. IRSHAD HUSSAIN

Sessions Case No.179/2019

The State..... Complainant

Versus

Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed.....Accused

FIR NO.38/2019

U/S: 376/511/354/337-A(i)/506/504 PPC

P/S: Iqbal Market

J U D G M E N T

7.09.2022

By this judgment, I intend to dispose of above noted sessions case in which accused Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed has been sent-up by S.H.O of P.S Iqbal Market Karachi to face trial in above noted crime.

2. Brief facts narrated by the prosecution are that complainant Amna lodged FIR stating therein that for last eight months her husband Abdul Khaliq was molesting her daughter Ria, aged about 8 years, attempting to commit her rape, beating her and extending life threats. Hence, complainant lodged the subject FIR.

3. In compliance of section 265-C Cr.P.C, relevant police papers were supplied to the accused, thereafter charge has been framed on 25.04.2019 to which accused had not pleaded guilty and claimed for trial and prosecution was directed to produce the evidence.

4. Just to strengthen its case, the prosecution has produced ASI Ghazanzada as P.W-01 at Ex.03 who produced FIR and Roznamcha entry at Ex.3/A and 3/B. PW-2 Amina (Complainant) was examined at Ex.4 who produced memo of site inspection at Ex.4/A. PW-3 ASI Rao Hamid was examined at Ex.5 who also examined as well conversant of I/O ASI Shahid Kaleem, who has been retired from service and his whereabouts are untraceable, and he produced memo of arrest and all relevant documents of investigation at Ex.5/A to 5/V. Meanwhile, the case was fixed for recording of evidence of the remaining prosecution witnesses and the accused who was produced by the jail authority before this Court, moved an application, whereby confessed guilt for the offence alleged against him and prayed that his case be decided. Such application was noticed to the learned DDPP for the State and same was kept on record at Ex.6. Meanwhile, learned DDPP for the State closed the side of prosecution vide his statement at Ex.7. Thereafter, a statement of accused under section 342 Cr.P.C. was recorded at Ex.8 in which accused admitted his guilt and deposed that he has ashamed for his guilt. He further deposed that he is first offender and assured the Court that he will not repeat the offence and left himself at the mercy of Court with prayer of less punishment.

5. My points for determination are as under:-

POINTS FOR DETERMINATION

1. *Whether in the year 2018 during the period of last nine months prior to lodging FIR the above named accused used to force the daughter of complainant Riya, aged about 8 years after keeping her under the fear of her death, to touch his private parts and used to molested her body and attempted to commit her rape in the absence of complainant at her house situated at Raja Tanveer Colony, Sector 11-1/2, Orangi Town, Karachi and also abused and assaulted complainant by extending threats?*
  2. *What offence, if any, has been committed by the accused?*
6. I have heard accused in person and DDPP appearing on behalf of the State.
7. My findings coupled with reasons on the above points are as under:

FINDINGS

Point No.1-----	Proved
Point No.2-----	<p>Accused Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed is convicted U/s.265-H(ii) Cr.P.C. for the offence punishable u/s 376 R/W 511 PPC and sentence for the period he has already undergone and fine of Rs.10,000/-. He is also convicted for the offence punishable u/s 354 PPC for the period of two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 506 PPC for two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 504 PPC for one years and fine of Rs.10,000/-. He is also convicted for the offence u/s 337-A(i) PPC for two years and fine of Rs.10,000/-. In case of non-payment of fine he will further suffer SI for two months for each default of payment. The benefit of section 382 B Cr.P.C is also given to accused. All sentences will be run concurrently. His conviction will be counted from the date of his arrest i.e 13.11.2018.</p>

REASONS

POINT NO.1

08. The allegation against present accused is that in the year 2018 during the period of last nine months prior to lodging FIR the above named accused used to force the daughter of complainant Riya, aged about 8 years after keeping her under the fear of her death, to touch his private parts and used to molested her body and attempted to commit her rape in the absence of complainant at her house situated at Raja Tanveer Colony, Sector 11-1/2, Orangi Town, Karachi and also abused and assaulted complainant by extending threats.

09. In order to prove its case, the prosecution has examined PW ASI Ghazan Zada (duty officer) as P.W-01 at Ex.03. He was the duty officer who lodged the FIR. He produced the same at Ex.3/A and Qaimi entry at Ex.3/B. He was cross examined by the accused in person. During the cross he admitted that no such specific date of alleged offence is mentioned in FIR. However, he deposed that alleged offence was committed during the period of last nine months of lodging

of FIR. PW-2 Mst. Amina (complainant) at Ex.4. She fully supported the contents of FIR and implicated the accused and deposed that in the year 2018 during the period of last nine months prior to lodging FIR the above named accused used to force her daughter Riya, aged about 8 years after keeping her under the fear of her death, to touch his private parts and used to molested her body and attempted to commit her rape in her absence at her house situated at Raja Tanveer Colony, Sector 11-1/2, Orangi Town, Karachi and when she came to know such facts and made inquiry from accused and then he abused and assaulted her and has beaten her by extending threats. It appears that the complainant was not cross examined as the accused requested to reserve the cross as his counsel was not in his contact. It is pertinent to mention here that I/O of the case was retired and his whereabouts were not known therefore SHO of PS. Iqbal Market was directed to depute any well conversant officer. Thereafter, the PW-3 ASI Rao Hamid was examined at Ex.5. He arrested the accused and he produced entry under which he left the PS, memo of arrest and arrival entry at Ex.5/A to 5/C. He also identified the accused being same accused who was arrested by him. Meanwhile the same witness was also examined being well conversant of I/O. He identified the handwriting and signature of the I/O upon the relevant memos. He also produced all relevant documents of investigation prepared by the I/O including sketch of site inspection, pictures, all relevant entries, letter to MLO and WMLO, ML Certificates etc. at Ex.5/D to 5/V and identified the signatures and hand writing of I/O. He was cross examined by the accused. During cross he admitted that both the mashirs of arrest are police officials. He denied that he cannot identified the signature and hand writing of I/O.

10. It is pertinent to mentioned here that the case was fixed for recording of evidence of the remaining prosecution witnesses, the accused who was produced by the jail authority before this Court, moved an application, whereby confessed guilt for the offence alleged against him and prayed that his case be decided. Such application was noticed to the learned DDPP for the State and same was kept on record. Meanwhile, learned DDPP for the State closed the side of prosecution. Thereafter, a statement of accused under section 342 Cr.P.C. was recorded in which accused admitted his guilt and deposed that he has ashamed for his guilt. He further deposed that he is first offender and assured the Court that he will not repeat the offence and left himself at the mercy of Court with prayer of less punishment.

11. It is an admitted fact that complainant PW No.2 Mst. Amina was examined at exhibit 4. She was the complainant of subject case registered u/s 376/511/354/504/506/337-A(i) PPC and she supported the contents of her statement. Perusal of evidence shows that accused was produced before MLO who confirmed that accused can perform sexual intercourse. It also appears that victim baby Ria was also produced before WMLO and according to WMLO the victim was virgo intacta however she was sexually assaulted has been subjected by fingers by the accused.

12. The allegation against the accused are that in the year 2018 during the period of last nine months prior to lodging FIR the above named accused used to force the daughter of complainant Riya, aged about 8 years after keeping her under the fear of her death, to touch his private parts

and used to molested her body and attempted to commit her rape in the absence of complainant at her house situated at Raja Tanveer Colony, Sector 11-1/2, Orangi Town, Karachi and also abused and assaulted complainant by extending threats. It is admitted fact that facts during his statement recorded under section 342 Cr.P.C. the above named accused himself admitted his guilt voluntarily and deposed that he has ashamed for his guilt and that he is first offender and assured the Court that he will not repeat the offence and left himself at the mercy of Court with prayer of less punishment. It is admitted fact that facts admitted are not needed to be proved under article 113 of Qanoone-e-Shahdat. Keeping in view, the voluntarily pleading of guilt of accused, I am of the view that prosecution has proved the case against the accused beyond any shadow of doubt as such point under discussion is answered as proved.

**POINT NO. 2**

13. Perusal of record shows that accused was arrested on 13.11.2018 and since then he has completed about three years and nine months and seven days period of confinement behind the bars and the accused has confessed the guilt of alleged crime voluntarily without force and coercion and left himself at the mercy of Court. Therefore, keeping in view the confinement period of accused behind the bars and keeping in view the fact that accused is not previously convicted and is of first offender, therefore, I am taking lenient view and I hereby convict and sentence the accused Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed u/s 265-H(ii) Cr.P.C. for the offence punishable u/s 376 R/W 511 PPC and sentence for the period he has already undergone and fine of Rs.10,000/-. He is also convicted for the offence punishable u/s 354 PPC for the period of two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 506 PPC for two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 504 PPC for one years and fine of Rs.10,000/-. He is also convicted for the offence u/s 337-A(i) PPC for two years and fine of Rs.10,000/-. In case of non-payment of fine he will further suffer SI for two months for each default of payment. The benefit of section 382 B Cr.P.C is also given to accused. All sentences will be run concurrently. His conviction will be counted from the date of his arrest i.e 13.11.2018. Accused produced in custody; he is remanded back to jail with direction to serve out sentence awarded to him.

ANNOUNCED IN OPEN COURT.

Given under my hand and seal of the Court on this 7<sup>th</sup> day of September, 2022.

IRSHAD HUSSAIN  
ADDITIONAL SESSIONS JUDGE-X  
KARACHI WEST

**Property Order:**

The case property be handed over to its owner after property identification and verification, after expiry of appeal period.

IRSHAD HUSSAIN  
ADDITIONAL SESSIONS JUDGE-X  
KARACHI WEST

IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE-X

KARACHI WEST

BEFORE: MR. IRSHAD HUSSAIN

Sessions Case No.179/2019

The State .....Complainant

Versus

Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed.....Accused

FIR NO.38/2019

U/S: 376/511/354/337-A(i)/506/504 PPC

P/S: Iqbal Market

To  
The Superintendent,  
Central Jail,  
Karachi.

**CONVICTION WARRANT**

Whereas the accused namely Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed produced before Irshad Hussain, Additional Sessions Judge-X, Karachi West. Judgment announced in open Court. I, therefore, convict and sentence the accused u/s 265-H(ii) Cr.P.C. for the offence punishable u/s 376 R/W 511 PPC and sentence for the period he has already undergone and fine of Rs.10,000/-. He is also convicted for the offence punishable u/s 354 PPC for the period of two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 506 PPC for two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 504 PPC for one years and fine of Rs.10,000/-. He is also convicted for the offence u/s 337-A(i) PPC for two years and fine of Rs.10,000/-. In case of non-payment of fine he will further suffer SI for two months for each default of payment. The benefit of section 382 B Cr.P.C is also given to accused. All sentences will be run concurrently. His conviction will be counted from the date of his arrest i.e 13.11.2018. The accused is produced from jail and remanded back to jail to serve out the sentence awarded to him.

This is to authorize and require you, the said Superintendent, to receive the said conviction above named in to your custody in the said Jail together with his warrant and carry the aforesaid sentence into execution according to law. You are directed to return the warrant to this Court with an endorsement of compliance under your certificate.

Given under my hand and seal of the court this 7<sup>th</sup> day of September, 2022.

IRSHAD HUSSAIN  
ADDITIONAL SESSIONS JUDGE-X  
KARACHI-WEST

IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE-X, KARACHI WEST  
BEFORE: MR. IRSHAD HUSSAIN

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FIR NO.38/2019

U/S: 376/511/354/337-A(i)/506/504 PPC

P/S: Iqbal Market

DESCRIPTION OF ACCUSED

NAME:	Abdul Khalique @ Nadeem @ Chota Police
F/NAME:	Abdul Rasheed
RELIGION:	ISLAM
CASTE:	Qureshi
AGE:	34 YEARS
OCCUPATION:	Embroidery
RESIDENCE:	House Near Khair Zaman Diesel Pump, St. No.1, Raja Tanveer Colony, Sector 11-1/2, Orangi Town Karachi.

MARKE OF IDENTIFICATION: Cut mark on right side over eyebrow.

Accused Abdul Khalique @ Nadeem @ Chota Police S/o Abdul Rasheed is convicted U/s.265-H(ii) Cr.P.C. for the offence punishable u/s 376 R/W 511 PPC and sentence for the period he has already undergone and fine of Rs.10,000/-. He is also convicted for the offence punishable u/s 354 PPC for the period of two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 506 PPC for two years and fine of Rs.10,000/-. He is also convicted for the offence u/s 504 PPC for one years and fine of Rs.10,000/-. He is also convicted for the offence u/s 337-A(i) PPC for two years and fine of Rs.10,000/-. In case of non-payment of fine he will further suffer SI for two months for each default of payment. The benefit of section 382 B Cr.P.C is also given to accused. All sentences will be run concurrently. His conviction will be counted from the date of his arrest i.e 13.11.2018.

THUMB IMPRESSION:

IRSHAD HUSSAIN  
ADDITIONAL SESSIONS JUDGE-X  
KARACHI-WEST

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P/S: Iqbal Market

RECEIPT

Copy of judgment supplied to the under named accused:

1. \_\_\_\_\_

Before me

IRSHAD HUSSAIN  
ADDITIONAL SESSIONS JUDGE-X  
KARACHI-WEST