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Ex. 22

IN THE ANTI-TERRORISM COURT NO. X, KARACHI

BEFORE: AMINA NAZEER ANSARI-(JUDGE)

Special Case No. 629/2018

The State

Versus

Amjad Ali @ Zakir @ Sajid S/o Khairat Ali.....Accused.

**FIR No. 34/2018
U/s: 376/363 PPC
R/w 7 ATA, 1997.
P.S. Sukhan, Karachi.**

Mr. Sardar Ali Solangi, learned APG for the State.

Ms. Asiya Muneer, learned counsel for the Complainant.

**Mr. Liaquat Hussain Khokhar, learned counsel for the accused
Amjad Ali @ Zakir @ Sajid.**

JUDGMENT
28.11.2022.

The accused namely **Amjad Ali @ Zakir @ Sajid S/o Khairat Ali** was sent up by **P.S Sukhan, Karachi** for his Trial in instant Case and accordingly, the present accused was charged and tried by this Court.

The Factual Matrix of the Prosecution case is that on **02.02.2018**, at 1800 hours, at **JPMC, Karachi (NICH Ward)** Complainant **Mst. Farzana W/o Muhammad Shakeel** got recorded her Statement U/s 154 Cr.P.C. before **ASI Khamiso Khan** of **P.S Sukhan, Karachi** wherein, She narrated that She works in **Ibrahim Garments Factory** and her Husband has gone to his Native Village at Punjab since **one Month** due to Anger/Annoyance. As per the Complainant, on the said day viz. **02.02.2018**, at **08:00 AM**, She had gone to her Duty at Factory after leaving her Daughters at House. Thereafter, at about **01:30 PM**, Area Persons had informed her on Phone that an Unknown Culprit had forcefully committed **Zina** with her Minor Daughter namely **Maria** (Aged 8/9 Years) in a **House situated at the Backside** of her House due to which, She got Injured. On receiving such Information Complainant immediately



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her House where, She came to know that her **Minor Daughter Maria** (Victim) had been taken/shifted to **JPMC, Karachi** by Mohallah Persons and Area Police. Accordingly, Complainant along with Two Persons Namely **Akhtar** and **Shahid** went to **JPMC, Karachi** in **Emergency Ward** where, She came to know that her **Minor Daughter Maria** (Victim) had been shifted in **NICH** (Children Ward). As such, Complainant reached there where, She saw that her **Minor Daughter Maria** was admitted in **ICU Ward**. Hence, on such narration of Facts by the Complainant in her Statement U/s 154 Cr.P.C, instant FIR bearing No. 34/2018 U/s 376 PPC was registered at P.S. Sukhan, Karachi against an Unknown Accused for forcefully committing Zina with Complainant's Minor Daughter Maria (Aged 8/9 Years).

After completing Investigation of instant FIR as warranted by Law, I.O submitted his Charge-Sheet in this case against the present accused before the **Administrative Judge of ATCs, Hon'ble High Court of Sindh at Karachi** wherefrom, the same was marked/transferred to **ATC-I, Karachi** for its disposal in accordance with law.

Thereafter, Necessary Case Papers were supplied to the present accused vide Receipt at **Ex. 01**.

Following which, **R&Ps** of instant case were received to this Court from **ATC-I, Karachi** by way of Transfer on the Administrative Grounds for disposal of this Case in accordance with law.

The earlier Presiding Officer of this Court took Oath as prescribed U/s 16 of ATA, 1997 at **Ex. 02**.

Then, Case Papers were supplied to the present accused vide Receipt at **Ex. 03**. Following which, Formal Charge was framed against the present accused at **Ex. 04** to which, he Pleaded Not Guilty and claimed his Trial, vide Plea at **Ex. 04/A**.

Subsequently, my learned Predecessor took fresh Oath U/s 16 of ATA, 1997 at **Ex. 05**.

During Trial, the Prosecution in order to bring home the Guilt of present accused, firstly relied upon the Testimony of **...**



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Dr. Alman Khurshheed (WMLO, JPMC, Karachi) who during her Statement in Court recorded at **Ex. 06** and produced Documents viz. Police Letter, Provisional MLC including Final Medico-Legal Report of **Minor Victim Maria** at **Ex. 06/A** to **Ex. 06/C** respectively. Thereafter, Evidence of **PW-02 Muhammad Hussain Soomro** (Forensic DNA Analyst, Focal Person of DNA Laboratory, LUMHS, Jamshoro) was recorded at **Ex. 07** whereby, he produced Documents in shape of a Request Letter addressed to the Chairman, Department of Forensic Medicine, Toxicology/Molecular Biology Lab, Liaquat University of Medical & Health Science, Jamshoro, Sindh, DNA Test Report, Another Request Letter addressed to The Chairman, Department of Forensic Medicine, Toxicology/Molecular Biology Lab, Liaquat University of Medical & Health Science, Jamshoro, Sindh, another DNA Test Report along with Covering Letter at **Ex. 07/A** to **Ex. 07/E** respectively. Then, Statement of **PW-03 Mst. Farzana (Complainant)** was recorded at **Ex. 08** and during her Evidence, she produced Documents viz. Statement U/s 154 Cr.P.C, Memo of Site Inspection and Seizure including Memo of Pointation of Place of Incident by present Accused at **Ex. 08/A** to **Ex. 08/C** respectively.

Following which, Evidence of **PW-04 Minor Victim Maria** was recorded at **Ex. 09**. After that, **SIP Muhammad Tayyab** (First I.O) stepped into the Witness Box as **PW-05** having been examined at **Ex. 10** and he produced Documents viz. Roznamcha Entry No. 45, Letter addressed to Incharge DNA Laboratory, Jamshoro University, Letter addressed to The Chairman, Department of Forensic Medicine, Toxicology/Molecular Biology Lab, Liaquat University of Medical & Health Science, Jamshoro, Sindh along with its Covering Letter, Letter addressed to Chemical Examiner, Sindh, Chemical Examiner's Report, Two Photographs of **Minor Victim Maria**, instant FIR No. **34/2018** U/s 376 PPC of Sukhan, Karachi and Roznamcha Entry No. 44 at **Ex. 10/A** to **Ex. 10/I** respectively. Then, Statement of **PW-06 ASI Arsalan Akbar** was recorded at **Ex. 11**, whereby, he produced Documents viz. Roznamcha Entry No. 16, Rapat No. 22 and Memo of Re-Arrest of present accused and Personal Search at **Ex. 11/A** to **Ex. 11/C** respectively.

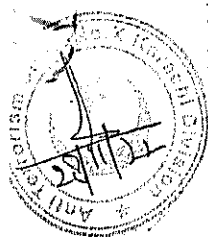
Thereafter, learned **APG for the State** preferred and filed an Application U/s **540 Cr.P.C.** at **Ex. 12** for calling/summoning **Mr. Mir Sagar Khan**, the then learned **Vith Civil Judge/Judicial Magistrate District Malir, Karachi** on the Ground that his Evidence



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was very important since, he had conducted/supervised I.T.P. of the present accused through **Minor Victim Maria** and due to Human Error, Name of said Judicial Magistrate had inadvertently not been mentioned by the I.O in Calendar of Witnesses in the Charge-Sheet. Accordingly, Notice of such Application was given to the other side and my learned Predecessor after hearing both Parties in detail passed an Order dated: **20.04.2021**, whereby, such Application preferred and filed by the Prosecution was allowed in the larger interest of Justice. Then, **learned APG for the State** filed a **Statement** at **Ex. 13**, whereby, **PW SIP Mehar Ali** was given up by the Prosecution.

Subsequently, Evidence of **PW-07 Mr. Mir Sagar Khan**, the then learned **Vith Civil Judge/Judicial Magistrate District Malir, Karachi** was recorded at **Ex. 14**, whereby, he produced Documents viz. original Memo of I.T.P. of the present accused, Letter addressed to The Nazir, District & Sessions Court, Malir, Karachi and Khaki colored Envelope (wherein Memo of I.T.P. was sealed) at **Ex. 14/A** to **Ex. 14/C** respectively. Thereafter, Statement of **PW-08 Dr. Nazeer Ahmed Malik** (Former SMLO, JPMC, Karachi) was recorded at **Ex. 15** and he produced Documents viz. Police Letter and MLC of the present accused at **Ex. 15/A** and **Ex. 15/B** respectively. Then, Prosecution relied upon the Evidence of **PW-09 Dr. Afzal Ahmed** (SMLO, Civil Hospital, Larkana) who was examined at **Ex. 16** and he produced Documents viz. Police Letter, MLC and Slip of Blood Sample at **Ex. 16/A** to **Ex. 16/C** respectively. Following which, Evidence of **PW-10 DSP Ali Hassan Shaikh** (Final I.O) was recorded at **Ex. 17** and he produced the Documents viz. Order issued by DIGP, East Zone, Karachi, Emergency Slip of JPMC, Karachi (pertaining to the present Accused), MLC of the present accused, Rapat No. 23, Roznamcha Entry No. 26, Roznamcha Entry No. 39, Rapat No. 40, Rapat No. 45, Rapat No. 54, Notices U/s 160 Cr.P.C. served upon the Complainant and the present accused and the Request Application filed before learned Judicial Magistrate, Malir, Karachi for holding I.T.P. of the present accused through **Minor Victim Maria** at **Ex. 17/A** to **Ex. 17/L** respectively. Finally, the Prosecution preferred and relied upon the Evidence of **PW-11 Aziz Ullah**, who was examined at **Ex. 18**. Subsequently, Prosecution closed its Side via Statement filed by learned APG for the State at Ex. 19.



Thereafter, Statement U/s 342 Cr.P.C. of Accused **Amjad Ali @ Zakir @ Sajid** was recorded at **Ex. 20** wherein he fully denied

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the Allegations levelled against him by the Prosecution and claimed to be Innocent. **However, the present accused Neither examined him on Oath Nor produced any Witness in his Defence.**

Following which, the Undersigned upon assumption of charge of this Court, took fresh Oath as prescribed U/s 16 of ATA, 1997 at Ex. 21.

In order to prove accusations leveled against the present accused, "11" PWs stepped into Witness Box, who were also cross-examined at length by learned counsel for the accused and their Evidences with Cross-Examinations are part and parcel of the R and Ps of this case therefore, it is not necessary to reproduce the same here for the sake of avoiding repetition as per dictum laid down by the **Honorable High Court of Sindh** in a Case Law reported in **S B L R 2018 Sindh 2110**.

I have heard the Arguments advanced by **Mr. Sardar Ali Solangi**, learned APG for the State, **Ms. Asiya Muneer**, learned counsel for the Complainant and **Mr. Liaquat Hussain Khokhar**, learned counsel for the accused **Amjad Ali @ Zakir @ Sajid**.

Mr. Sardar Ali Solangi, learned APG for the State at the very outset, argued that present accused is fully involved in this case and as per the allegations levelled in the instant FIR, on 02.02.2018, at about 1300 hours, present accused Amjad Ali @ Zakir @ Sajid in the Complainant's neighboring House situated at Labour Square, Bhens Colony, Landhi, Karachi forcefully committed Rape (Zina Bil Jabr) with baby victim Maria, due to which, She got severely injured and by such Acts, present accused also created terror, panic and sense of fear and insecurity in the minds of the baby victim, her family members and public in general. He also argued that on 10.04.2018, at 1300 hours present accused being already arrested in Case Crime No. 236/2018 of P.S Shah Latif, Karachi was Re-Arrested in the present case by DSP/I.O Ali Hassan Shaikh under a Fard of Re-Arrest in presence of Mashirs upon his disclosure and admission for committing the instant offence of Zina with the Minor Victim. He further argued that after being Arrested in instant case, the present accused voluntarily led the Police party headed by DSP/IO Ali Hassan Shaikh and pointed out the Place of committing Zina with the Minor Victim Maria and such Fard of Re-Arrest of Crime Scene by the present



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accused was also prepared by the I.O at the spot in presence of Mashirs.

Besides, He argued that during Trial, 11 PWs were brought forwards into Witness Box, who during their Testimonies in Court fully confirmed the Incident as reported in the instant FIR and corroborated the entire case of the Prosecution. He also argued that during Trial, the entire Case Property in sealed condition along with relevant Documents in the shape of Police Letters, Statement U/s 154 Cr.P.C. of the Complainant, Memo of Site Inspection, Letters addressed to different Authorities for collecting Evidences, Departure and Arrival Entries of Daily Roznamcha, instant FIR No. 34/2018, Notices U/s 160 Cr.P.C. served upon the Complainant and present accused were also produced by the Prosecution through concerned PWs in Court, which were duly identified/verified by them to be same and correct with their signatures and endorsements. He further contended that all the PWs were subjected to lengthy Cross-Examination by the learned defence counsel, but their Testimonies could not be shattered.

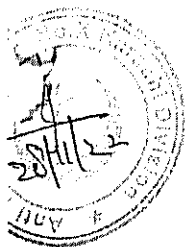
He also argued that Minor Victim Maria during her Evidence before the Court had rightly identified the present accused as to be the actual Culprit who committed Rape with her and He further asserted that present accused was also rightly/positively identified by Minor Victim during his I.T.P. held by learned Judicial Magistrate, with specific Role of committing Rape with Minor Victim Maria.

The learned APG for the State further argued that Evidence of Minor Victim is also being corroborated through Medical Evidence in shape of MLCs prepared and issued by WMLO wherein, She opined that fresh act of sexual intercourse had been committed on the Victim and as per Chemical Analysis Report No. S-60/2018, Human Sperms were detected on vaginal Swabs. Moreover, He while referring to the DNA Report issued by Forensic and Molecular Biology Laboratory for DNA Testing, LUMHS, Jamshoro contended that as per DNA Analysis/Test, the preserved Male DNA Profile found on clothes of victim Maria shares the required Alleles with the DNA Profile obtained from blood sample of present accused, which according to the learned APG for the State has fully established the entire case of the Prosecution.

Apart from the above, the learned APG for State also argued that admitted I.T.P. ...



delay however, such delay is not fatal for the case of Prosecution since as per Law, I.T.P. is to be conducted within 15 days of the Arrest of an Accused whereas, in the present case I.T.P. was conducted on 24.04.2018, by PW-07 Mr. Mir Sagar Khan, the then learned Vith Civil Judge/Judicial Magistrate, Malir, Karachi while, the present accused was Re-Arrested in this case on 10.04.2018, hence, such delay which was neither intentional nor deliberate would not be fatal for the case of Prosecution. He further contended that minor contradictions, discrepancies and even technical lapses on the part of Investigation Agency would not be fatal for the case of Prosecution since, there are sufficient Evidences available on the record against the present accused in shape of Testimony furnished by Minor Victim Maria, which is also being supported by Medical Evidence and other circumstantial Evidence available on record. He further pointed out that as per Evidence of the Minor Victim, Fear was evident from the face of the Victim after remembering the Facts of the Incident in Court during her Evidence and such Natural Evidence of the Victim inspires confidence, which requires consideration. Besides, He argued that due to heinous Act of the present accused as described by the Victim, Area People were under Fear/Terror, due to which, they were hesitant in sending their Children to Schools/Madressahs and in this regard, I.O of this case had also visited Schools and Madressahs of the Area, so also met with Teachers where, he came to know that attendance of Children had reduced/lessened a lot, due to frequent incidents of Child Rapes at that time in the Area. As per learned APG for the State, I.O of this case also recorded Statements U/s 161 Cr.P.C. of Teachers and People of the locality and due to element of fear and terror, Section 7 of ATA, 1997 was inserted/added in this case. It was further argued that apart from the Evidences of Minor Victim and Complainant, the Prosecution also relied upon Testimony of an Independent/Private Witness viz. Local Resident of the Area namely PW-11 Aziz Ullah in order to strengthen its Version, who during his Testimony fully affirmed the Incident of Rape with Minor Victim Maria and also confirmed the element of Terror and Panic which prevailed in the Area due to such heinous Act of Rape.

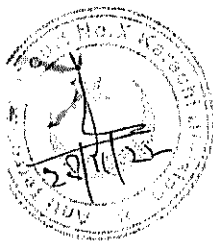


The learned APG for the State further argued that in view of the Evidence led by the Prosecution, it is apparent that present Accused is Involved in Five Rape Cases including present Case and his DNA Profile has matched with Five Samples taken from Victims being Minor Girls which includes the Victim of this case and such Fact is

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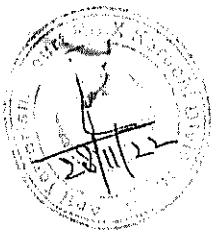
also being fully confirmed through DNA Test Report brought on record during Evidence and the present accused is a habitual offender. Furthermore, He contended that the present accused Neither examined him on Oath, Nor produced any single Witness in his Defence and mere verbal assertions were made by the present accused while recording his Statement U/s 342 Cr.P.C regarding his alleged false implication in this case, which is not sufficient to discard the case of the Prosecution, which is being supported through strong tangible Evidence. He also pointed out that Neither any Enmity Nor ill-will has been brought on record by the Defence which could hint towards possibility of false implication of the present accused in this case by Victim/Complainant and Police. **Lastly, He while summing up his Arguments, prayed for "convicting" the present accused.**

Whereas, **Ms. Asiya Muneer**, learned counsel appearing on behalf of the Complainant while relying upon the entire Evidence led by the Prosecution argued that present accused committed heinous act of Rape with **Minor Girl/Victim Maria** and after his Arrest in this case, his DNA Test was conducted and such DNA Test Report has come on record, which is Positive and requires consideration. She further argued that present accused is a habitual criminal who has committed Rapes of Eight innocent Minor Girls including Victim of this case in different Areas of Sindh and Punjab Provinces at different intervals from the year 2007 till 2018. She further argued that "Four Cases" including the present case pertaining to Rapes of Minor Girls are pending against the present accused before this Court, which shows that present accused is a habitual criminal. Besides, she argued that during Evidence, **Minor Victim Maria** fully implicated the present accused with Role and also positively/rightly identified him in Court as well as during I.T.P. of the present accused conducted by the learned Judicial Magistrate. She also contended that during **Trial**, entire Case Property pertaining to this case was produced before the Court, which was duly identified by the PWs as to be same, which has given further corroboration to the case of Prosecution. According to her, Evidence furnished by the Victim is quite Natural. She further contended that Medical Evidence available on the record has given major corroboration to the case of the Prosecution. She also contended that No Enmity or ill-will exists on record, which could suggest false implication of the present accused in this case by the Complainant/Victim and Police. Besides, she argued that DW Met. Khodja is not a Material Witness since she was not



available at the time of Incident therefore, she was not examined in this case. She further contended that Complainant/Victim reside in Labor Colony, where mostly, all the Members of the Families do different Jobs since, they are Poor and not well to do. She also contended that in cases of Rape, sole Testimony of Victim is sufficient to award Conviction to an accused if, it inspires confidence, which is apparent in this case in view of the Evidence furnished by Minor Victim Maria. **Lastly, she also adopted the Arguments advanced by the learned APG for the State and prayed for "convicting" the present accused.** In support of her Arguments, She also relied upon a Case Law reported in **2020 MLD 588 (Lahore)**.

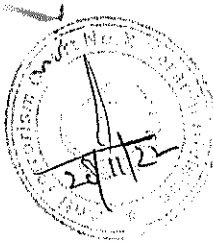
On the contrary, **Mr. Liaquat Hussain Khokhar**, learned defence counsel argued that present accused **Amjad Ali @ Zakir @ Sajid** is innocent and has been falsely implicated in this case by the Complainant/Police with malafide intentions and ulterior motives. He also argued that present accused is not nominated in the present FIR and the same was lodged against unknown person. He further argued that alleged Incident was shown to have occurred on 02.02.2018, at 1300 hours, while Complainant got registered the instant FIR on 02.02.2018, at 1940 hours and such un-explained delay creates doubt. He further argued that no Hulya/Description of the Accused is mentioned in the instant FIR. He also argued that accused was booked in this case by the Police on the basis of Extra-Judicial Confession which is not admissible in Evidence. It was further argued that no any Confessional Statement of the present accused U/s 164 Cr.P.C. is available on the record. He also argued that alleged Incident as reported in the instant FIR is unseen/unwitnessed although, Place of Incident is a populated Area. He further contended that No Witness from the Mohallah/Area was cited in this case by the I.O, which was Necessary as Mohallah/Area Persons had gathered at the scene of crime. He also contended that Complainant was residing in the House on rental basis as Tenant however, owner of the said House was not cited/opted as Witness in this case by the I.O. He further argued that as per contents of Challan, the present accused was caught by the Mohallah Persons who had allegedly abducted a minor Girl and was taking her away for committing Rape (Zina) on the hue and cry of Victim and the present accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught but, as per learned defence counsel, None of the Mohallah Persons who had allegedly caught the present accused was cited as a Witness in this





case. He further contended that admittedly, there was a Gadda {Mattress} available at the spot however, the same was not collected/secured by the Police from the Crime Scene as Case Property. He also argued that PW-05 SIP Muhammad Tayyab did not produce his Arrival Entry in Court, which he had purportedly made at P.S after Inspecting the Place of occurrence.

Besides, the learned defence counsel argued that I.T.P of the present accused was held in this case with 14 days delay, creating doubt since, he was arrested in this case on 10.04.2018, whereas, the I.T.P. of the accused through Minor Victim was conducted by the learned Judicial Magistrate on 24.04.2018, for which, no reasonable explanation has been furnished on record. He was also of the view that I.T.P. of the accused was not conducted in accordance with Law. He also argued that during Evidence, some Attested Photostat Copies of Documents were produced in Court instead of original ones, which are not admissible in Evidence. It was further argued that there are major contradictions amongst Testimonies of the PWs damaging the case of the Prosecution and in this regard, he relied upon the Cross-Examinations of the PWs. He also asserted that Evidence furnished by the PWs are not reliable and trustworthy. He further argued that separate Blood Samples of the present accused were not taken during Investigation and single Blood Sample was taken/collected which was preferred for instant case including other case crimes. It was further pointed out that during Cross-Examination, WMLO admitted that No Marks of Violence were seen on any part of the Minor Victim's Body, which according to learned defence makes the case of Prosecution doubtful.



The learned defence counsel further argued that DNA Test was not conducted according to law. He also argued that both I.Os of this case did not properly investigate this case and accused was falsely challaned by the Final I.O without collecting solid Evidence against him. He further argued that as per settled SOPs, in offences involving Rape of Minor Female Victims, I.O should be a Female Officer but, in the present case, Investigation was conducted by a Male Police Officer, which is violation of settled SOPs. It was further contended that while recording Statement U/s 342 Cr.P.C, the present accused narrated the actual Facts in detail and explained the circumstances leading to his false implication in instant case at the hands of I.O/DSP Ali Hassan Shaikh. Lastly, he while summing up his Arguments, prayed for

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IN **Rebuttal** to the above Arguments advanced by the learned defence counsel, **learned APG for the State** also contended that FIR is not an Encyclopedia of Facts but it contains initial/firsthand Information given by the Informer/Complainant and FIR is a corroboratory piece of Evidence hence, it is not necessary to mention each and every detail in the FIR. He further contended that as per dictum laid down by the Hon'ble Apex Court, Marks of Violence in Rape Incidents are Neither required Nor relevant and the Medical Evidence is sufficient proof of commission of Zina. He further contended that as per dictum laid down by the Hon'ble Apex Court, consent of Accused is not required for conducting DNA Test or any Blood Test in order to ascertain truthfulness of the allegation. As regards to the production of Attested Photostat Copies of relevant Documents instead of original ones, learned APG for the State contended that such Documents were duly attested by the concerned Doctors and Final I.O/DSP Ali Hassan Shaikh, who had also verified such copies of Documents while producing them in Court and as per learned APG for the State, during Evidence, learned defence counsel did not raise any Objection in this respect and such objection of the learned defence counsel at belated stage cannot be taken into consideration and as per settled principle of law, if anything stated in the Examination in Chief is not crossed/confronted by learned defence counsel, the same is to be presumed to be true to its entirety as per Article 133 of the Qanoon e Shahadat Order, 1984. He also asserted that Confession before Police is admissible in Evidence subject to the availability of strong circumstantial and corroboratory Evidence as it is the position in this case and in this regard, He referred to the provision of Section 21-H of ATA, 1997 whereby confession of an accused made before a Deputy Superintendent of Police may be admissible and can be used against the accused making such Confession.

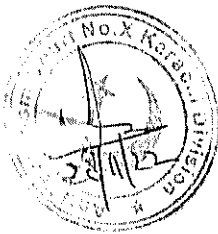


He further asserted that present accused is a habitual criminal and he has remained involved in such heinous crimes with Minor Girls earlier as well as, in Sindh and Punjab Provinces, which is also reflected from his detailed Interrogation Report available in the Police File. In this regard, He also referred to the contents of Interrogation Report of the present accused, as per which, the present accused committed first Rape with a Minor Girl aged 06/07 Years in the year 2007 in Punjab Province by alluring her and in this regard, he also went to Jail after registration of case. He also pointed out that in

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the year 2013 second Rape was committed by the present accused with an Innocent Minor Girl in the Area of Mubina Town, Karachi for which, he went to Jail also. It was further pointed out that in the year 2015, on Sunday, in morning time, the present accused committed third Rape with another Innocent Minor Girl. As per learned APG for the State, in the year 2016 on Sunday, the present accused committed fourth Rape with 07/08 years old Minor Girl after alluring her in the Area of Shah Latif Town, Karachi. It was also pointed out that in the year 2017 in the Month of June/July it was Friday, when the present accused committed fifth Rape with another Innocent Minor Girl aged 06/07 years in the Area of Nipa Chowrangi, Karachi. Furthermore, as per learned APG for the State, in the Month of December, 2017 the present accused committed sixth Rape with another Minor Girl aged 06/07 years within the Area of Sherpao Colony, Lala Abad Road after alluring her. Besides, as per learned APG for the State, again in the Month of December, 2017 the present accused committed seventh Rape with another Minor Girl aged 07/08 years within the Area of Zafar Town, Karachi after alluring her. Furthermore, according to learned APG for the State, in the month of February, 2018 on Friday, at Bhens Colony, Factory Zone, Karachi present accused committed eighth Rape with another Minor Girl.

The learned APG for the State further contended that in order to commit such heinous acts, present accused would mostly choose Friday/Sunday. He also pointed out that on 07th April, 2018 present accused got apprehended by Mohallah People red handed, while he had abducted another minor Girl and was taking her away for committing Rape (Zina) on the huc and cry of Victim and at that time, present accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and he was referred to Jinnah Hospital, Karachi. It was further contended that some of the Rape Incidents were not even reported by the Families of the Victims due to various Reasons. **The learned APG for the State emphasized that viewing to the conduct of the present accused being a habitual offender, he is not entitled for any kind of Leniency and is liable to be punished as warranted by law.** In support of His contentions, He placed reliance upon Case Laws reported in **1997 P.Cr.L.J. 209, 2018 MLD 1164, PLD 2021 S.C 550, 2017 P.Cr.L.J. 452, 2013 SCMR 203, 2018 P.Cr.L.J. 1275, 2020 MLD 588, PLD 2001 Supreme Court 398, 1997 P.Cr.L.J. 280, 2016 P.Cr.L.J. 1**



and 2022 SCMR 50 {Supreme Court of Pakistan}. Besides, He also submitted a copy of an Article on "Child Witness" by Shabbir Ahmed.

I have considered the Arguments advanced by learned APG for the State, learned counsel for the Complainant and learned defence counsel for the present accused, so also perused the entire Evidences adduced by the Prosecution Witnesses along with their Exhibits and also the Case Laws produced in support of their contentions.

Accordingly, I have formulated the following Points for determination:-

1. **Whether, on 02.02.2018, at 1300 hours present accused Amjad Ali @ Zakir @ Sajid kidnapped the baby victim namely Maria D/o Muhammad Shakeel, aged about 8/9 years against her will and took her to Complainant's neighboring House situated at Labour Square, Bhens Colony, Landhi, Karachi whereby, He forcefully committed Rape (Zina Bil Jabr) with baby victim Maria. Consequently, the baby victim got severely injured and by such acts, present accused also created terror, panic and sense of fear and insecurity in the minds of baby victim Maria, her family members and public in general?**
2. **What offence, if any, accused has committed?**

Now, my Findings on the above Points with Reasons are as under:-

FINDINGS

Point No: 1....."**PROVED**"

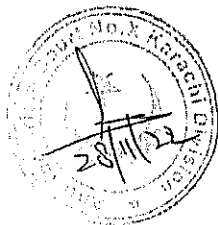
Point No: 2....."**Accused is CONVICTED**"

U/s: **376 (3) PPC.**

REASONS

POINT No. 1:-

While conducting Trial, the Prosecution in order to establish the above determined Point and bring home the guilt of



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present accused, brought forward "11 PWs" into the Witness Box, who were subjected to lengthy Cross-Examination by the learned defence counsel and the important aspects of their Evidences are being discussed herewith for ready reference and proper appreciation of entire Material brought on record against the present accused by the Prosecution/Police.

Since, it is a Rape Case, therefore all the codal formalities as per directions of Hon'ble Supreme Court were duly complied with as under:-

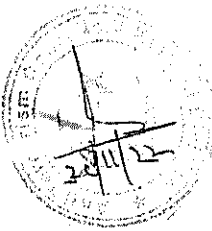
"All the other litigants, Advocates and witnesses were not allowed to sit in the Court Room as till to date, no separate Room has been allocated for such cases. Besides this, for the sake of Security of Victim and PWs, the Desk/Curtain remained available in the Court to save the faces of the witnesses and victim. Besides this, all the CCTV Cameras are working in the Court Room."

Since, the allegation levelled against the present accused by the Prosecution is quite serious in nature for committing "Rape" {Zina Bil Jabr} with Minor Victim Maria therefore, I meticulously scanned out Evidences furnished by the PWs in this case to extract out the prominent aspects of the case in hand, which has led to the following Findings:-

PW-01 Dr. Aiman Khursheed (WMLO, JPMC, Karachi) in her Evidence recorded at **Ex. 06** deposed that on 02.02.2018, at 03:14 PM, She was posted as WMLO at JPMC, Karachi. On said day, ASI Khamiso Khan Channa of P.S Sukkun, Karachi brought a girl namely Maria D/o Muhammad Shakeel, aged 08 years with a request of her Medical Examination vide **Police Letter** dated 02.02.2018, which She produced at **Ex. 06/A** and verified it to be same, correct and bearing her signature. On Examination of Victim namely Maria D/o Muhammad Shakeel, No mark of violence was seen over any part of the body. Victim was admitted in NICH, OT and was examined over there.

PER ABDOMINAL EXAMINATION

No mark of violence.





PER VAGINAL EXAMINATION

Vagina bleeding profusely. Posterior wall of vagina torn. Posterior fornix torn. Hymen freshly torn and bleeding. Labia magora not torn (normal). Perineal body torn.

Vagina one finger was introduced with lot of pain and bleeding ++. Vagina two fingers were introduced with much difficulty and pain. Referred for gynaecological opinion.

White shalwar and light sea green shirt with white dots and vaginal packing were sealed and sent for chemical examination.

Two vaginal swabs had been reserved for DNA and Two for chemical analysis. Sealed clothes, Vaginal Swabs, Vaginal packing and blood sample had been handed over to I.O for further proceedings.

OPINION

In Her opinion, she (Minor Victim) is not virgo intacta, she has had sexual intercourse. However, for any fresh act, four vaginal swabs had been sent for DNA and Chemical Analysis. Referred for gynae opinion.

Accordingly, She issued a Provisional Medico-Legal Certificate of the victim bearing ML No. 21/2018, which She produced at Ex. 06/B and verified it to be same, correct and bearing her Signature. Furthermore, She had also issued Final MLC on 13.03.2020. She produced the same at Ex. 06/C and verified it to be same, correct and bearing her final opinion including her signature.

FINAL OPINION

As per Chemical Analysis Report No. S-60/2018, Human Sperms were detected on Vaginal Swabs.

She had seen and produced blood stained clothes of the victim Viz. Light sea green shirt with white dots and duly verified them to be same, which were marked as Article P/1.



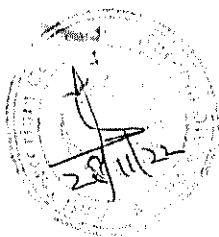
In Cross-Examination, She affirmed that the victim was brought by ASI Khamiso Khan Channah at about 03:14 PM on 02.02.2018, accompanied by her mother namely Farzana as her mother had signed the ML Report. She also affirmed that the clothes of the victim were sealed in a white colored cloth parcel which is regularly used by Medico Legal Department for sealing the case property. She fully denied the Suggestion that She did not send the clothes of the victim for chemical analysis and DNA, nor any

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sample was sent. She admitted that Shalwar was not present in the Court and also admitted that No Mark of Violence was found on the body of Victim.

PW-02 Muhammad Hussain Soomro (Forensic DNA Analyst, Focal Person of DNA Laboratory, LUMHS Jamshoro) during his Testimony recorded at **Ex. 07** deposed that He is a Forensic DNA Analyst. Currently, he is posted at Forensic and Molecular Biology Laboratory for DNA Testing, LUMHS, Jamshoro. On 03.02.2018 and 09.02.2018, He had received case property of FIR No. 34/2018 U/s 376 PPC of P.S Sukkun, Karachi, District Malir, Karachi including HVS, clothes and blood sample of victim namely **Maria D/o Muhammad Shakeel**, cloth recovered from the crime scene along with blood sample of accused Amir S/o Fazal ur Rehman and Asif S/o Ghulam Abbas. He had received above case property through Letter of SSP Investigation-II, East Zone, Karachi regarding DNA Test of victim and suspects, dated March, 2018. He produced such Letter at **Ex. 07/A** and verified it to be same, correct. In this case, Male DNA Profile obtained from semen stains/sperm fraction identified on clothes of the victim and light grey colored kameez recovered from the crime scene did not match with suspects named above and DNA Profile of unknown male (obtained from the clothes of victim and grey colored kameez recovered from the crime scene) was preserved. Accordingly, He issued such DNA Report, bearing No. 169/2018, dated 06.04.2018, which He produced at **Ex. 07/B** and verified it to be same, correct and bearing his signature.

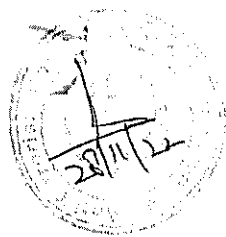
On 07th April, 2018 He had received blood sample of accused Amjad Ali S/o Khairat Ali by hand from ASI Abdul Rehman of P.S Sachal, District Malir, Karachi vide Letter No. 1128 issued by SSP Investigation-II, East Zone, Karachi, dated 07.04.2018, which He produced at **Ex. 07/C** (copy, since the original has already been produced in Special Case No. 632/2018 against same accused Amjad) and verified it to be same. According to him, Sample was collected by Medico Legal Officer, JPMC, Karachi. **The above preserved Male DNA Profile found on clothes of victim namely Maria D/o Muhammad Shakeel, grey colored Kameez recovered from crime scene shares the required Alleles with the DNA Profile obtained from blood sample of Amjad Ali S/o Khairat Ali.** Accordingly, He issued such DNA Test Report bearing No. 226/2018, dated 09.04.2018. He produced the attested Photostat copy of above mentioned final DNA



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Report (containing Two leaves as its original has been produced in Special Case No. 632/2018 in which the same accused is arrested) at **Ex. 07/D** and verified it to be same, correct and bearing his Signature. Thereafter, such DNA Report and case property were handed over to I.O of this case namely DSP Ali Hassan Shaikh vide Letter No. 226/2018, dated 14.01.2020, which He produced at **Ex. 07/E** and verified it to be same, correct and bearing his signature including receiving of I.O. Moreso, I.O/DSP Ali Hassan Shaikh had already received photocopy of above Report on 09.04.2018.

In **Cross-Examination**, He fully denied the suggestion that his signatures available on **Ex. 07/B** and **Ex. 07/D** are different from his signature available on his CNIC. He also stated that he has done his Graduation in Medical Laboratory Technology from Baqai Medical College, Karachi after that, He had joined Liaquat University of Medical Sciences in 2006 in the Department of Forensic Medicine and Toxicology and throughout his Job/tenure, He has done various Trainings in Forensic DNA Typing and Techniques. He further stated that They had sent separate Reports of all the cases likewise, **Ex. 07/A**. According to him, **Ex. 07/D** is an individual Report of the accused Amjad regarding the case as mentioned therein therefore, all the cases against the accused are mentioned in **Ex. 07/D**. He affirmed that They received the Sperm along with Case Property as received by the Laboratory. He also stated that the second last Letter pertains to victim of this case. He affirmed that the case property of instant case was deposited on 03.02.2018. Likewise, he affirmed that in the last column of **Ex. 07/D**, They have only mentioned the articles wherefrom, the Sperm was detected. He further stated that They had mentioned their Observation in Column No. 05 regarding those Articles wherefrom, the Sperms were collected/found. **He further stated that since, the Shalwar of the Victim received to Them was stained with heavy blood therefore, they could not detect any Sperm from it. He also affirmed that the Lifespan of a Sperm Cell is about Seven {07} days which can be detected by them up till Six {06} years from any Article.**



He also affirmed that he is an Expert in conducting DNA Test/Analysis. The learned defence counsel also confirmed from him the Procedure of conducting DNA Analysis, which he fully described with Steps.

He also stated that other Procedures for Positive Report

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Amplification PCR Kits. **He fully denied the suggestion that at that time, Their Operating Machine was not functional/intact. He also denied the suggestion that Reports of DNA as submitted by him in the Court were not prepared according to Law.** Besides, he affirmed that the blood sample of accused Amjad was received by him on 07.04.2018, by hand from ASI Abdul Rehman of P.S Sachal, Karachi as reflected in the Report. He fully denied the suggestion that there is no nexus between Case No. 236/2018 U/s 363/511 PPC of P.S Shah Latif Town, Karachi and this case and He voluntarily stated that accused Amjad was firstly arrested in Crime No. 236/2018 wherein blood sample was taken, which had matched with Evidences of all the Five (05) Cases against the present accused.

Besides, he affirmed that the blood sample of the accused Amjad was received to them pertaining to Crime No. 236/2018 after which, They extracted DNA from the said Blood sample of the accused Amjad following which, the same got matched with preserved Profiles of all Five (05) Victims in cases against the accused. He also stated that Just one Sample of the accused Amjad was received to Them pertaining to Crime No. 236/2018 after which, DNA Profile was obtained/extracted from such Blood Sample of the accused Amjad and the same got matched with the Male DNA Profiles obtained from Semen Stains/Sperm Fractions which were identified on all Evidences of Five (05) Cases against the accused Amjad as mentioned in the DNA Report. He fully denied the suggestion that Exhibits submitted by him viz. Ex. 07/B and Ex. 07/D were not duly stamped. Moreover, the original Stamped documents already produced in other Special Case No. 632/2018 were shown by learned defence counsel to this witness to which, he on seeing such documents admitted that these are original documents wherein, "Forensic and Molecular DNA Lab LUMHS" is mentioned. He fully denied the suggestion that DNA Test conducted by them was not in accordance with law. Similarly, he denied that Suggestion that DNA Report submitted by LUMHS is not according to law. He also denied the suggestion that DNA Report dated 09.04.2018, is not relevant to the accused Amjad in all the cases.

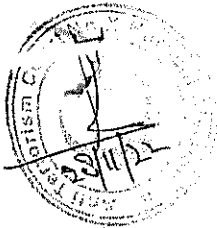


PW-03 Mst. Farzana in her Evidence recorded at **Ex. 08** deposed that on 02.02.2018, She was available on her duty (Ibrahim Garments Factory). Her duty timings were from 08:00 AM to 08:00 PM. Usually, She comes back at 08:30 PM. On the said day, she received a call from one of the Mohalla person at about 01:30 PM. The caller

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informed that Her daughter namely Maria had been raped by some person behind their house at a neighbor's House for performing the Prayers. Soon after receiving such information, She immediately left her company and rushed towards her House and when she reached near her House, She found people who had gathered. She, firstly met with Akhtar Bhai and Shahid Bhai from Mohallah who also informed her that her daughter was raped at a House situated at Bhens Colony, Labor Square Karachi with House No. NH-183 and she (Victim) was at JPMC at that time. Thereafter, Minor Victim was taken by them to JPMC, Karachi where, She found her daughter namely Maria in ICU of JPMC, Karachi and she was under treatment. Then, one Lady Doctor came to her and prepared MLC so also obtained her Thumb Impression on it. She had seen such MLC at **Ex. 06/B** and verified it to be same and correct containing her name written by her in Urdu with her Thumb Impression.

She further deposed that the above proceedings were carried out between 03:30 PM to 04:00 PM. The treatment of her daughter/victim was in progress. Meanwhile, at about 06:00 PM, one Police official approached to her and inquired from her about the facts of the incident and also obtained her Right Thumb Impression on her Statement (U/s 154 Cr.P.C.), which She produced at **Ex. 08/A** and verified it to be same, correct and bearing her Thumb Impression as well as her name in Urdu. In the evening, when She reached back to her house from JPMC, Karachi concerned Police officials came at the place of occurrence at about 08:45 PM and She had accompanied them where, one Gadda (Mattress) was found and secured from there. Police also found and secured one blood stained shirt (child size) and blood was also found on the floor in that specific area. Accordingly, Police officer firstly sealed the cloth in the Hospital thereafter, during Inspection of place of occurrence in her presence under the Memo of Site Inspection and recovery/seizure of Shirt, which She produced at **Ex. 08/B** and verified it to be same, correct and bearing her signature in Urdu.



Note: The Court had obtained name/signature of the witness on the backside of Ex. 08/B to ascertain its veracity during the Examination in Chief.

On 23.04.2018, She received a call from P.S Sukkun, Karachi and She was informed that culprit of this case and incident had been caught and arrested by the Police and Police officials brought

the said arrested culprit at the place of occurrence and in front of her, Police inquired from the arrested culprit regarding Rape committed with her daughter/victim to which, he admitted his guilt. At that time, Police also obtained her signature on Memo of Inspection of place of occurrence by accused, which She produced at **Ex. 08/C** and verified it to be same, correct and bearing her signature in Urdu. Thereafter, her statement was also recorded by Ali Hassan. **The Accused was rightly/positively identified by this Witness in Court.**

Note: This Witness had seen one Article P/1 (already de-sealed) which contained one bluish green colored shirt of a Boy and verified it to be same, which was secured in her presence from Crime scene by the Police.

One Parcel marked as Article P/2 was also de-sealed containing her daughter's clothes viz. light greenish blue with shalwar, which were duly verified by this Witness to be same as recovered in her presence by Police.

In Cross-Examination, She duly affirmed that the white colored Shalwar de-sealed in front of her, marked as Article P/2 belonged to her daughter. She also affirmed that she had mentioned that there was a Gadda available at the spot. She also affirmed that the contents of Ex. 08/B were read over to her however, Three (03) years have passed being a mother of the victim.

Note: During Evidence, it was Observed that the Witness had tears in her eyes and in reply to another question put up by learned Advocate for the accused, She stated that at the place of occurrence, one lady was residing at that time and She did not remember as to whether she is available or not.

She further stated that at the time when She reached at the place of occurrence, due to her natural condition being in trauma, She did not know who was present there at that time due to shock of this incident. She affirmed that place of incident is a populated area. **She fully denied the suggestion that Ex. 08/A to Ex. 08/C were prepared at P.S. She also stated that since, She was divorced by her husband therefore, he was not witness of this case. She also fully denied the suggestion that her daughter had not identified the present accused before the concerned Court of Malir during Identification Parade. Likewise, she fully denied the suggestion that present accused is not involved in the rape case committed**





with her daughter. Besides, she affirmed that Shahid and Akhtar were along with her during proceedings of the case. She fully denied the suggestion that on not fulfilling the demand of the Police, the present accused was involved in this case. She also denied the suggestion that She had not deposed correctly in Court.

PW-04 Maria (Minor Victim) in her Testimony recorded at Ex. 09 deposed as under:-

Note: The Witness is underage of 11/12 years. She was asked by the Court that for what purpose she had come before the Court. The Victim replied that she had come to record her evidence in Court. My learned Predecessor put a question that who He was? She answered/replied that He was a Judge. This Witness also rightly identified the counsels in Court. My learned Predecessor was satisfied that she was able to record her evidence.

As per Minor Victim Maria, She is studying in Al-Manzoor Education Academy situated in Shah Latif Town, Karachi in IIIrd Standard. They in all are Three sisters. Previously, Her mother was working in a Factory and nowadays, She is with them at home. On 02.03.2018, it was Friday and her Mother was in Factory whereas, She and her younger sister Alisha were at her friend's house namely Misbah, whose house is situated just behind their house. She further deposed that They went there for offering Jumma Prayers as They used to perform collective Prayers. It was about 01:00 PM when They reached the House of her friend Misbah, her younger brother opened the door and one person appeared outside the house wearing light blue colored Shalwar Kameez who asked her friend Misbah for showing/visiting her House. To which, she replied that at that Time, nobody was available inside the House. Then, said person returned back from there. At the same time, the said person again appeared after about 05 to 10 seconds when They were inside the House. Soon after opening the gate by Misbah, he {Said Person} pushed Them and forcefully entered inside Misbah's house. Thereafter, said Person had locked Them in the Kitchen cum Bathroom. They were making hue and cry at that time due to above act of the said Person to which, said Person Slapped Her {Minor Victim} and he said that if, They made hue and cry/shouting he would shoot Them with Weapon.



SA

She further deposed that after seeing all the children, He called her (Minor Victim) and he took off her worn Shalwar and committed Zina (Ghalat Kaam) with Her. Thereafter, He fled away from the Scene.

Note: During Evidence, it was Observed that this Witness (Minor Victim Maria) had fear on her face and appeared to be in deep trauma after remembering the facts of the incident.

Thereafter, They (Children) all made hue and cry due to which, Mohallah people had gathered there. Following which, Police officials of the Area also reached the spot. Thereafter, Mohallah People along with Police took Her to a Hospital i.e. Jinnah Hospital, Karachi. At JPMC, Karachi She was shifted in Children Ward. On 24.04.2018, She had appeared before a Judge where, She had identified one Person amongst other many persons.

Note: The Minor Victim claimed that accused had pimples (Daane) on his face and she could identify him.

She further deposed that when she appeared before the Judge, He asked her to identify the Person amongst the Persons present there in the Court who had committed the above offence.

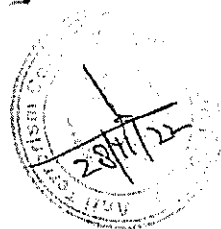
Note: The learned Prosecutrix had asked a question from this victim regarding obtaining any signature from her to which, Victim replied that she gave her Thumb Impression.

During the above proceedings, Her statement was recorded by the Police.

Note: During her Evidence, the Victim was shown the accused present in the Court behind the Bars to which, she had rightly identified Him as to be same Culprit by saying that she had identified the present Accused by his face.

The Minor Victim further stated that prior to this incident, She was in Fourth Class and after the incident, still She was in IIIrd Standard and due to act of the present accused, he had destroyed her studies. The Minor Victim prayed to Court that accused has committed wrongful act with her and he is liable to be Penalized/punished.

Note: The Minor Victim after seeing a Kameez and Shalwar had identified them to be same, which were worn by her at the time of



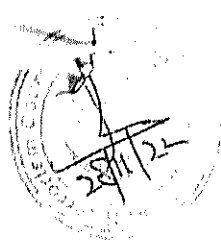
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incident. The Kameez had blood stains on it while the victim had explained that third Piece of cloth i.e. Small Boy's Shirt belonged to brother of her friend Misbah which also had blood stains on it. The Victim further explained/stated that blood was oozing from her body i.e. Urinal Part and fell on the ground. The blood was wiped/cleaned by the Mohalla Women from the floor.

In Cross-Examination, She fully denied the suggestion that the Shalwar and Shirt produced in the Court, which were identified by her (Article P/1 and P/2) did not belong to her. She affirmed that Police had obtained Shalwar from the spot whereas, Kameez was taken by them in the Hospital. She again affirmed that they used to collectively offer Jumma Prayer along with recitation of Surah Yaseen on every Friday. She also affirmed that soon after she entered Misbah's House, within Two Minutes this incident took place. Likewise, She affirmed that soon after their hue and cry, She was slapped by the present accused to which, She started crying and the present accused told her that if She did not stop crying, he would further beat her. Besides, she stated that soon after reaching the Hospital, her statement was recorded. She also stated that since, it was too late, at the time of recording Police Statement, the slapping figures were not visible on her face at that time.

She also affirmed that she was taken straight away to the Hospital from the House of Misbah. She further stated that after the arrest of the present accused, she had not paid any visit along with her mother to Police Station. She fully denied the suggestion that she was told by Police persons after showing the accused at P.S regarding the spots on face of the accused for his identification. She also affirmed that at the time of Identification Parade of the accused, various persons were available in Identification Parade with similar faces as to the present accused. She also affirmed that They were all of similar size. She fully denied the suggestion that present accused did not commit any offence with her. Likewise, she fully denied the suggestion that She had wrongly identified the accused.

Note: During Evidence, Victim strictly denied the above suggestion of learned defence counsel and reiterated that present accused is the same person who committed Zina Bil Jabr with her.



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She also fully denied the suggestion that accused was not present at the place of occurrence/House of Misbah.

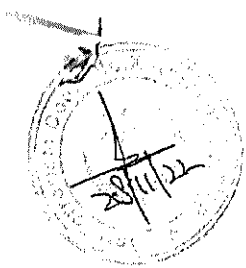
Note: The Victim had again vehemently denied the above suggestion by stating that accused came to the House of Misbah and committed Zina with her (me).

She also fully denied the suggestion that in presence of younger brother of her friend Misbah, her sister including other children, it was not possible to commit Zina with Her.

Note: The Victim had informed the Court that prior to committing Zina with her, the present accused had locked the other children in Kitchen and Bathroom.

She also fully denied the suggestion that accused had not locked down other children in Kitchen cum Bathroom before committing Zina with Her.

PW-05 SIP Muhammad Tayyab in his Testimony recorded at Ex. 10 deposed that on 02.02.2018, he was posted at P.S Sukkun, Karachi. His duty hours were from 08:00 PM to 08:00 AM. On said day, before 08:00 PM, he already received a call from SIO who informed him that FIR No. 34/2018 U/s 376 PPC had been registered at P.S which was marked to him for investigation purpose. Accordingly, he arrived at P.S and received investigation of instant FIR vide entry No. 45, which he produced at Ex. 10/A and verified it to be same and correct. While receiving the Police papers, FIR along with Medical Papers, 154 Cr.PC. Statement of the Complainant along with other corresponding Letters addressed to Medical Authorities were intact. Thereafter, he proceeded to the Place of occurrence, i.e. House No. NH 183, Labour Square near Bhens Colony, Karachi. After reaching at the crime scene, he met with Complainant namely Mst. Farzana (mother of the victim) and also met with the minor victim Maria. Thereafter, he along with SIP Mumtaz on pointation of the Complainant inspected the Crime scene of Rape, during which, They found and secured one Salty colored child cloth containing blood in presence of the Complainant Mst. Farzana and SIP Mumtaz. After securing the blood stained child cloth, he sealed the same at the spot. After inspecting the place of occurrence, he prepared Memo of Inspection of place of occurrence and seizure of blood stained child cloth in presence of Mashirs namely Complainant and SIP Mumtaz, so



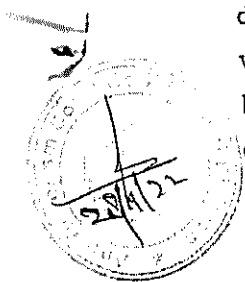
also obtained their signatures on said Fard, which he had seen at Ex. 08/B and verified it to be same, correct and bearing his signature including signatures of Complainant and SIP Mumtaz Hussain.

He also called the Complainant and other PWs including minor Victim Maria at P.S for recording their Statements U/s 161 Cr.P.C. His arrival entry of P.S after inspecting the place of occurrence was made by him but, at that time, the same was not available with him, which he claimed to produce on next date and He again stated that at the time of inspection of place of occurrence, the victim Maria was also available there, who had accompanied Them. At P.S, he had recorded Statements U/s 161 Cr.P.C. of the Complainant and victim, who was present there along with her father.

On the next day, he penned down a Letter addressed to his SSP for sending the recovered blood stained child cloth to DNA Lab, Jamshoro for its analysis, which he produced at **Ex. 10/B** and verified it to be same, correct and bearing his signature. In response to his above Letter, his SSP issued his approval and accordingly, He himself submitted the Case Property i.e. blood stained child cloth to DNA Lab, Jamshoro for Analysis through his Letter. He produced SSP's Letter of Approval at **Ex. 10/C** and verified it to be same and correct. Thereafter, the Same was received by Jamshoro Lab, which was endorsed on his application at Ex. 10/C. Thereafter, vide Letter dated 03.02.2018, Jamshoro Lab issued Expenses for conducting Analysis, vide No. 46/2018, which he produced at **Ex. 10/D** and verified it to be same and correct.

On 05.02.2018, he obtained the Swab Slab from Lady MLO and was handed over by him to Chemical Examiner. On the same day, he issued a Letter addressed to Incharge Chemical Examiner, which he produced at **Ex. 10/E** and verified it to be same, correct and bearing his signature. Accordingly, in response to his above Letter, he obtained Report from Chemical Examiner, which he produced at **Ex. 10/F** and verified it to be same and correct. During the course of investigation, on 04.02.2018, he had conducted photo session of the child victim Maria comprising of Two Images at her house, which he produced at **Ex. 10/G** and verified it to be same, correct and bearing his signature.

Note: He had seen Article P/1 i.e. a Shirt of victim and verified it to be same. He also verified that the Parcel wherein the Shirt was

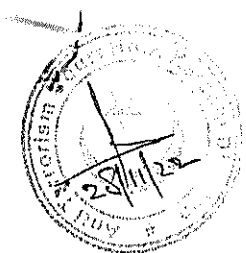


sealed contains his signature including signatures of Complainant and SIP Mumtaz Hussain.

After completing 14 days Investigation, he declared the Case under A-Class for its approval. During which, He was transferred and posted to P.S Site Super Highway, Karachi.

Note: During Evidence, learned APG for the State had brought into the knowledge of this Court that author of instant FIR namely ASI Khamiso Khan had expired few days back and since, this Witness was well conversant with said deceased Police official's handwriting and signature being I.O of this case at that time therefore, he had produced FIR No. 34/2018 U/s 376 PPC at Ex. 10/H and verified that it is same, correct and bearing handwriting and signature of deceased ASI Khamiso Khan. He also produced Qaimi Entry No. 44 at Ex. 10/I and verified that it is same, correct and bearing handwriting of deceased ASI Khamiso Khan.

In Cross-Examination, he affirmed that he had received this Investigation vide entry No. 45 (Ex. 10/A) on 02.02.2018. He also affirmed that he had received FIR No. 34 U/s 376 PPC, 154 Cr.P.C. statement of the Complainant Mst. Farzana, Medico Legal Letters, Medico Legal Certificates including sealed Parcel containing clothes of the victim Maria. He further stated that he had inspected House No. NH-183 of Labour Square near Bhens Colony, Karachi. According to him, the Complainant was a Tenant of this House. He further stated that firstly, He had visualized the crime scene thereafter, he started his written work procedure. Besides, he affirmed that on the floor, a Mattress was lying whereby clothes were seen in the bag. He also stated that since, no crime was committed on Gadda/Mattress, therefore, the same was not produced before this Court. He also stated that the Zina was committed in the Room whereby the Mattress was lying. He also affirmed that from the Crime scene, he had secured/collected a piece of cloth of a Kameez with which, the Accused had cleaned his private part after committing Zina Bil Jabr with the victim. He affirmed that in the surrounding of the place of occurrence, Houses are located wherein people are residing. He fully denied the suggestion that the clothes of the victim shown by the Prosecution are not the clothes of the victim.



Besides, he stated that he had obtained the blood stained kameez of the victim but, he did not obtain any separate blood of the

victim from the spot. **He fully denied the suggestion that he had not visited the place of occurrence and likewise, he denied the suggestion that he had prepared entire papers produced by him in Court at P.S.** Besides, he confirmed that he had also recorded the Statement U/s 161 Cr.P.C. of the Victim's father namely Shakeel. He further stated that on the same day of registration of FIR, i.e. 02.02.2018, he had received Swab Slabs, which he had sent to Chemical Examiner on 03 to 05 of February, 2018. He also stated that after submitting the Challan under A-Class in this case crime, He was transferred from Sukkun, Karachi to SITE Super Highway therefore, Second/other I.O might have secured such Report. **He fully denied the suggestion that He had not conducted proper investigation in this case.**

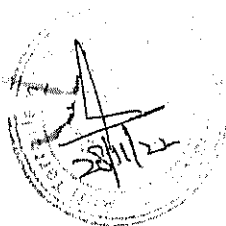
PW-06 ASI Arsalan Akbar in his Deposition recorded at **Ex. 11** narrated that on 10.04.2018, He was posted at P.S Malir Cantt and his duty timings were from 08:00 AM to 08:00 PM as a Duty officer being ASI. On the same day, vide Rapat No. 16, SIP Sahib Khan came to his P.S in connection with FIR No. 236/2018 of P.S Shah Latif Town, Karachi wherein, an accused namely Amjad Ali @ Zakir Son of Khairat Ali was already arrested and locked-up at their P.S being arrested in a sensitive case and for the purpose of security, He was kept in the lockup of this P.S. **He produced Rapat No. 16 under which, SIP Sahib Khan had appeared at his P.S as mentioned above at Ex. 11/A and verified it to be same and correct.** Thereafter, SIP Sahib Khan got busy in interrogation of the already arrested accused Amjad Ali @ Zakir as mentioned above in his presence. Then, vide Rapat No. 22, DSP Ali Hassan Shaikh also appeared at his P.S, who in his presence as well as in presence of SIP Sahib Khan also interrogated the arrested accused Amjad in Crime No. 34/2018 of P.S Sukkun, Karachi U/s 376 PPC Read with 7 ATA, 1997, Crime No. 334/2017 U/s 376 PPC R/w 7 ATA, 1997 of P.S Quaidabad, Karachi as well as Crime No. 659/2017 U/s 376 PPC R/w 7 ATA, 1997 registered at P.S Shah Latif Town, Karachi. **He produced Rapat No. 22 at Ex. 11/B and verified it to be same, correct and bearing his signature.**



Following which, DSP Ali Hassan Shaikh got busy in interrogating the accused Amjad Ali @ Zakir Son of Khairat Ali in his presence so also in presence of SIP Sahib Khan. During interrogation, the arrested accused Amjad Ali @ Zakir confessed to his guilt for

committing Zina with Three (03) Minors in different cases i.e. in Crime No. 34/2018 of P.S Sukkun, Crime No. 334/2017 of P.S Quaidabad, Karachi as well as Crime No. 659/2017 of P.S Shah Latif Town, Karachi. After the above disclosure and admission of accused Amjad Ali @ Zakir, he was also Arrested in above Crimes bearing No. 34/2018, 659/2017 and 334/2017. On the same day, at about 01:00 PM, a proper Memo of Re Arrest was prepared by DSP Ali Hassan Shaikh in this case in his presence. **He produced Memo of Re-Arrest of this case at Ex. 11/C and verified it to be same, correct and bearing his signature.** Thereafter, DSP Ali Hassan Shaikh left his P.S after re-arresting the accused in this case. Later on, his statement was also recorded by I.O/DSP Ali Hassan Shaikh i.e. 14.04.2018. **The Accused was rightly identified by this Witness in Court as to be same and He further stated that previously, present Accused was having very thin Beard now, he is having proper trimmed Beard.**

In Cross-Examination, he again affirmed that at the time when the present accused was in the lockup of their P.S Malir Cantt, He was posted in the same P.S and his duty timings were from 08:00 AM to 08:00 PM i.e. 10.04.2018. He further stated that the accused was transferred to lockup of their P.S one day ago. He affirmed that DSP Ali Hassan Shaikh had interrogated the present accused in the Room of Duty officer and He was the Duty officer at that time. **He fully denied the suggestion that No such interrogation of the accused had taken place in front of him at the time of preparing Ex. 11/C. Likewise, he denied the suggestion that during above interrogation, present accused had not disclosed the guilt of his crimes in front of him and Voluntarily stated that Accused had admitted his guilt before Them. He also fully denied the suggestion that He was deposing falsely on the saying of I.O/DSP Ali Hassan Shaikh.**



PW-07 Mir Sagar Khan (CJ/JM posted at Malir, Karachi) during his Evidence recorded at Ex. 14 deposed that on 24th April, 2018, He was posted as Vth CJ/JM at Malir, Karachi. On the same day, He had received a forwarded Application as a Link Judge under Crime No. 34/2018 of P.S Sukkun, Karachi.

Note: **On de-sealing the Khaki colored Envelope, it was found to have contained only the Memo of I.T.P. of the accused.**

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Accordingly, on the same day in view of the Request Application, 10 Dummies were arranged through Court staff while the accused was made to sit inside the office of learned IXth JM/CJ Malir at Karachi under the supervision of his Court staff and the identifier/witness was made to sit separately on the Ground Floor under the supervision of his Court staff. The accused was then brought inside the Court Room with help of same staff. Later on, the identifier was called from Ground Floor whereas, the accused was given opportunity to stand at the Place of his choice in the Row of Dummies to which, he opted to stand at Serial No. 06th from the left side and 06th from the right side. Afterwards, the Identifier/witness was called inside the Court Room to identify the accused by putting Hand over shoulder of the person, so identified to which, the Identifier/witness went and put hand on the shoulder of a person standing at serial No. 06th from left and serial No. 06th from right and described his Role that it was that same person who had entered into her friend's home (victim herein) and took all of them inside a Kitchen and that she (victim) was separated and taken to another Room where, the same accused pulled down her Shalwar and forcibly committed Sexual Intercourse with her. The Identifier was sent out and then, He appended a Certificate at the foot of the same Identification Test Parade Proceedings to which, Identifier (victim) put her Thumb Impression upon the same.

Note: During Evidence, learned Prosecutrix had requested the Court that copy of Request Letter of I.O was available in the Police File and if Court allowed, the Same was to be produced through this witness. To this, learned counsel for the accused had raised an objection that Photocopy of a Document is not admissible in evidence as the same is hit by provisions of Qanoon e Shahadat Order, 1984. On this objection, the learned Prosecutrix stated that required document shall be produced through I.O of these cases.



He produced original Memo of I.T.P. of the present accused supervised by him on 24.04.2018, at Ex. 14/A and verified it to be same, correct and bearing his endorsement, signature, official Stamp embossed on each page of Ex. 14/A with Thumb Impression of victim on first page of Memo, whereas, the same also bears his Certificate on the last Page of Memo. He also produced a Letter written by him to concerned Nazir for keeping the Memo of I.T.P of the accused in safe custody and Khaki colored Envelope bearing official Stamp of Court at Ex. 14/B and Ex.

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his endorsement. **The Accused was rightly identified by this Witness in Court as to be same.**

In **Cross-Examination**, he fully denied the suggestion that Dummies arranged by the Court staff for I.T.P. were not of same height. He also stated that He had not mentioned in Column No. 04 of I.T.P. at Line No. 08 of page 03 regarding name of victim's friend and voluntarily stated that since, Victim did not disclose name of her friend therefore, He did not mention such fact therein. **He fully denied the suggestion that above I.T.P. of the accused was not conducted in accordance with Rules.**

PW-08 Dr. Nazeer Ahmed Malik {Former SMLO posted at JPMC, Karachi} during his Evidence recorded at **Ex. 15** deposed that on **29.04.2018**, He was posted at JPMC, Karachi as SMLO. On the said day, at about **01:46 PM**, he had received a Police Letter with reference to FIR bearing No. **236/2018 U/s 363/511 PPC of P.S Shah Latif Town, Karachi**, FIR No. **516/2016 U/s 376 PPC of P.S Shah Latif Town, Karachi**, FIR No. **659/2017 U/s 376 PPC of P.S Shah Latif Town, Karachi**, FIR No. **34/2017 U/s 376 PPC of P.S Sukkun, Karachi**, FIR No. **390/2015 U/s 376 PPC of P.S Quaidabad, Karachi** and FIR No. **334/2017 U/s 376 PPC of P.S Quaidabad, Karachi** from **P.S Shah Latif Town, Karachi** from one **SIP Saheb Khan** for conducting "Potency Test" of one **Amjad Ali @ Zakir S/o Khairat Ali** aged about 31 Years, Sex Male.

Then, on the same day, at about **02:00 PM**, He started conducting Potency Test of said Amjad Ali @ Zakir, which lasted up till 10 to 15 minutes. During General Examination, it was found that said Amjad Ali @ Zakir was adult, male of average built. Then, his clothes were changed and bath taken. Secondary Sex developed, no any abnormality seen. On Prostatic Massage, erection of Penis seen.

OPINION

In his opinion, the above said person is capable to do intercourse as present.

However, Semen was taken to prove Erection and Potency. Accordingly, He issued MLC No. **J-4211/2018**. He produced Police Letter and his MLC at **Ex. 15/A** and **Ex. 15/B** respectively and verified them to be same, correct and bearing his signatures.

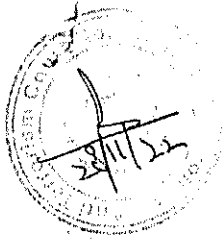


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In **Cross-Examination**, He affirmed that he had himself taken/collected sample of Semen of the accused Amjad Ali @ Zakir. He again affirmed that the sample of Semen was taken for the purpose of ascertaining Potency and Erection of the said Amjad Ali in this case. He also explained that it is not necessary that all the Examinations lead to normality of Potency and Erection. Besides, he stated that He had obtained/collected just one sample of semen of the present accused. **He fully denied the suggestion that he had not opined his views properly at Ex. 15/B.**

PW-09 Dr. Afzal Ahmed (SMLO, Civil Hospital, Larkana) during his Evidence recorded at **Ex. 16** deposed that on 12.04.2018, He was on duty as MLO at JPMC, Karachi. In the evening shift, on the same day, accused Amjad Ali Son of Khairat Ali, aged about 31 years was brought to him for getting his blood sample for his DNA Test. SIP Saheb Khan of Investigation of P.S Shah Latif Town, Karachi had also given Him a Letter in this regard with reference to FIR bearing No. **236/2018 U/s 363/511 PPC of P.S Shah Latif Town, Karachi**, FIR No. **516/2016 U/s 376 PPC of P.S Shah Latif Town, Karachi**, FIR No. **659/2017 U/s 376 PPC of P.S Shah Latif Town, Karachi**, FIR No. **34/2017 U/s 376 PPC of P.S Sukkun, Karachi**, FIR No. **390/2015 U/s 376 PPC of P.S Quaidabad, Karachi** and FIR No. **334/2017 U/s 376 PPC of P.S Quaidabad, Karachi** for such samples of blood.

Accordingly, He examined the above said accused during which, He found his general condition to be conscious and well oriented. He drew the samples of blood, which were sealed by him and labelled and accordingly, handed over to above said Police official for the purpose of DNA Test. In this regard, He also issued MLC No. J-3536/2018 dated 12.04.2018. Besides this, He also gave a Slip of sample of seal for above samples to the same Police official. He produced Police Letter, MLC and Slip of blood Sample at **Ex. 16/A**, **Ex. 16/B** and **Ex. 16/C** respectively and verified them to be same, correct and bearing his endorsements and signatures.



In **Cross-Examination**, he affirmed that He had collected Three Samples of Amjad Ali.

Note: During Evidence, learned defence counsel put a question from this witness regarding Consent of the accused for taking his Blood Sample for DNA Test Purpose, to which, learned Prosecutrix

of this Court had raised an objection by stating that no Consent is to be taken from the accused in the light of dictums laid down by the Hon'ble Apex Courts.

He further stated that since, he had received a letter from one SIP Saheb Khan of P.S Shah Latif Town, Karachi, therefore, on his Request Letter, in all, Three (03) Samples of blood of Amjad were obtained/collected for the purpose of DNA Test. He also explained that the Result of drawn Sample of blood for DNA from any person/accused could be relied for any other purpose/matching relating to said person, which is the fact of this case also. He fully denied the suggestion that Result of sample of blood drawn from a person cannot be used twice for other purpose. He also fully denied the suggestion that he had not drawn any blood sample of the accused Amjad Ali. He also stated that it took almost 20 to 30 minutes in the entire process for drawing/obtaining blood samples of the accused. He fully denied the suggestion that documents produced by him in the shape of Ex. 16/A to Ex. 16/C are not according to law. Similarly, he denied the suggestion that above Exhibits were prepared on the saying of Police. He also fully denied the suggestion that He had not drawn the blood samples of the accused in accordance with law.

PW-10 DSP Ali Hassan Shaikh (Final I.O of this case) in his Deposition recorded at Ex. 17 stated that in the Month of March, 2018, He was posted in District Malir, Karachi as DSP. On 02.03.2018, a Meeting was held wherein, SSP Malir, Khalid Khan being SDPO Sachal and He himself were called by DIGP East. In the said Meeting, it was discussed that in Five (05) FIRs pertaining to Rapes of Victims of District Malir, a common accused is involved, which was ascertained through LUMHS, Jamshoro where, the Samples were referred and sent for their Examination and Report. Thereafter, in the said Meeting, Three (03) FIRs bearing No. 34/2018 registered at P.S Sukkun, Karachi, 334/2017 of P.S Quaidabad and 659/2017 of P.S Shah Latif, Karachi registered U/s 376/34 PPC were entrusted to Him for Investigation vide Order dated 02.03.2018, bearing No. DIGP/East/RDR/903/2018. He produced such Written Order at Ex. 17/A and verified it to be same and correct.

After receiving investigation of instant FIR, He visited the place of occurrence pertaining to instant FIR whereby, he

were hesitant in sending their Children to Schools/Madressahs. He also visited Schools and Madressahs of the Area, so also met with Teachers where, He came to know that attendance of Children had reduced/lessened a lot due to frequent incidents of Child Rapes at that time in the Area. Accordingly, He recorded Statements U/s 161 Cr.P.C. of Teachers and People of the locality.

During the course of investigation, He obtained CDRs and investigated various Suspects in the instant matter. **On 07.04.2018, another Meeting was called by DIGP in pursuance of instant FIRs, wherein, DIGP got information that a Person had been apprehended who had abducted a minor Girl and was taking her away for committing Rape (Zina) but, he was caught by the People of the Area on the hue and cry of Victim. The said accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and at the time of his handing over to the Police of P.S Shah Latif, Karachi for proper arrest wherefrom, he was referred to Jinnah Hospital, Karachi.** Accordingly, in the said Meeting, He and DSP Khalid Khan were directed by DIGP to go to Jinnah Hospital, Karachi so as to interrogate the said apprehended accused. On reaching at Jinnah Hospital, Karachi They found an Accused over there, who was lying in an injured condition. On query, said Person disclosed his identity as to be Amjad @ Zakir S/o Khairat Ali. At that time, Doctor advised Them not to interrogate him due to sustaining injuries. At that time, vide entry No. 3333/2018, dated 07.04.2018, He obtained Blood Sample of said Amjad @ Zakir from the MLO present at that time. The injured Amjad @ Zakir had been brought at Jinnah Hospital by SIP Saheb Khan the then I.O of FIR No. 236/2018 U/s 363/511 PPC of PS Shah Latif, Karachi. To this, They obtained/collected Documents in the shape of MLC No. 3333/2018, dated 07.04.2018 and Emergency Slip of Jinnah Hospital as well as Blood Sample of injured Amjad @ Zakir from SIP Saheb Khan. He produced Emergency Slip of Jinnah Hospital and MLC of accused at **Ex. 17/B** and **Ex. 17/C** respectively and verified them to be same and correct.



After that, They appeared before SSP office with above referred Documents and Blood Sample. The Blood Sample was then sent/referred to LUMHS, Jamshoro through ASI Abdul Rehman vide Letter of SSP. He had seen Ex. 07/C (Request Letter of SSP-Inv, Malir, Karachi addressed to LUMHS, Jamshoro) and verified it to be same

Report from LUMHS, Jamshoro. He had seen such Report at Ex. 07/D and his Receiving on a Letter at Ex. 07/E and verified them to be same and correct.

Following which, on 10.04.2018, SIP Saheb Khan of P.S Shah Latif, Karachi got noted that custody of accused Amjad @ Zakir had been shifted to PS Malir Cantt and as per SIP Saheb Khan, during interrogation conducted by him, the accused Amjad @ Zakir disclosed and confessed to his guilt of committing Rapes with Five (05) minor Victims/Girls pertaining to the respective FIRs of Rape. On such information furnished by SIP Saheb Khan, He along with DSP Khalid Khan went to PS Malir Cantt vide Entry No. 22 dated 10.04.2018, at about 1150 hours. He had seen such entry at Ex. 11/B and verified it to be same and correct. **At P.S Malir Cantt, He interrogated the accused Amjad @ Zakir (herein called as Amjad) in crime No. 34/2018 of P.S Sukkun, Karachi, Crime No. 334/2017 of P.S Quaidabad, Karachi and Crime No. 659/2017 of P.S Shah Latif Town, Karachi during which, he admitted his guilt for committing the above offences of Rape with minor Victims.** Since, the accused was already confined at Lockup of P.S Malir Cantt having been arrested in case crime No. 236/2018 U/s 363/511 PPC of P.S Shah Latif, Karachi therefore, He re-arrested the present accused in Crime No. 34/2018 at P.S Sukkun, Karachi, Crime No. 334/2017 of P.S Quaidabad, Karachi and Crime No. 659/2017 of P.S Shah Latif Town, Karachi under a Fard of Re-Arrest in presence of Witnesses/Mashirs namely SIP Saheb Khan and ASI Arsalan Akbar. He had seen Ex. 11/C (Memo of Re-Arrest) and verified it to be same, correct and bearing his signature including signatures of Mashirs.



After that, at about 1300 hours, He left P.S Malir Cantt, vide Rapat No. 23, which he produced at Ex. 17/D and verified it to be same and correct. Accordingly, on 11.04.2018, the accused Amjad was produced before the Administrative Judge of ATCs at Hon'ble High Court of Sindh at Karachi for seeking his Remand, to which, He obtained 15 days PC Remand of the accused Amjad. On the next day, i.e. 12.04.2018, SIP Saheb Khan (I.O of FIR No. 236/2018) took the present accused to JPMC for obtaining his "Saliva Swab" for the purpose of DNA Analysis at Punjab since, frequently, such type of incidents were happening at that time in Punjab also, for Matching Purpose. In this regard, MLC No. 3536/2018, dated 12.04.2018 was issued and obtained.

Then, on 13.04.2018, He took out the custody of arrested accused Amjad @ Zakir from the Lockup of P.S Shah Latif Town, Karachi so as to interrogate him, during which, he disclosed that since, the year 2003 till the year 2018, he committed Rape (Zina) with almost Nine (09) Victims in Sindh and Punjab. Following which, on 23.04.2018, the accused Amjad @ Zakir was further interrogated in the FIRs during which, he voluntarily agreed to point out the Crime Scenes where, he committed Zina (Rape) with minor Victims. At that time, during further interrogation, DSP Khalid Khan had also accompanied him, who was I.O of FIRs bearing No. 516/2016 of P.S Shah Latif, Karachi and 390/2017 of P.S Quaidabad, Karachi. Apart from Three (03) FIRs entrusted to him for investigation, the present accused also agreed to point out Crime Scenes of other Two (02) FIRs bearing No. 516/2016 and 390/2017, which were being investigated by DSP Khalid Khan. He produced an Entry No. 26 at 1500 hours dated 23.04.2018 of P.S Shah Latif, Karachi at **Ex. 17/E** and verified it to be same and correct.

Accordingly, vide Rapat No. 26, He along with DSP Khalid Khan proceeded for Pointation of Crime Scene in pursuance of Crime No. 516/2016 and 659/2017 of PS Shah Latif, Karachi. After Pointation of Crime Scene in above FIRs, They returned back to P.S Shah Latif, Karachi. After which, He marked his arrival vide Rapat No. 39 and under the same entry, at 1730 hours, He again left P.S Shah Latif for the purpose of Pointation of Crime Scene in FIR No. 34/2018 (instant FIR), for which, He proceeded to P.S Sukkun. He produced such entry at **Ex. 17/F** and verified it to be same and correct. On reaching at P.S Sukkun, Karachi He marked his arrival vide entry No. 40 at 1840 hours and under the same entry, He proceeded to the Crime Scene of this case. At that time, He was also accompanied by DSP Khalid Khan (I.O of other Crimes) along with custody of accused Amjad @ Zakir S/o Khairat Ali. He produced Rapat No. 40 at **Ex. 17/G** and verified it to be same and correct. Following which, the accused Amjad made pointation of Place i.e. inside a Flat situated at Labor Square by disclosing that it was the same place where, he committed Rape with minor Victim. To this, He prepared Memo of Pointation of Crime Scene of this FIR at 1930 hours in presence of Mashirs namely Mst. Farzana and Abdul Aziz Raja and also obtained their signatures on such Fard. He had seen such Fard at Ex. 08/C and verified it to be same, correct and bearing his signature including signatures of Mashirs named above. After that, He again went to P.S Sukkun,

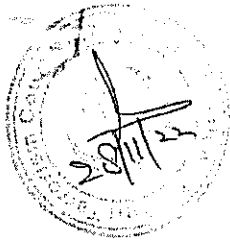


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Karachi and marked his arrival vide Rapat No. 45 at 2020 hours and under the same entry, He went to P.S Shah Latif, Karachi along with custody of accused Amjad @ Zakir. He produced such entry at **Ex. 17/H** and verified it to be same and correct. On reaching at P.S Shah Latif, Karachi He firstly, locked up the accused Amjad @ Zakir vide Entry No. 54 at 2100 hours, which he produced at **Ex. 17/I** and verified it to be same and correct.

Following which, He left P.S and proceeded back to his office. Meanwhile, He issued Two Notices U/s 160 Cr.P.C. addressed to Complainant of this case and Accused Amjad @ Zakir for Identification Test Parade of the accused Amjad through Victim. He produced such Notices U/s 160 Cr.P.C. at **Ex. 17/J** and **Ex. 17/K** respectively and verified them to be same, correct and bearing his Signatures with receiving of both Complainant and accused. Then, on 24.04.2018, he produced the custody of accused Amjad @ Zakir before the Court of learned Judicial Magistrate concerned at District Malir, Karachi and submitted his request Application for holding of I.T.P of present accused Amjad through Victim Maria in this FIR No. 34/2018. He produced his written Request at **Ex. 17/L** and verified it to be same, correct and bearing his signature with Order passed by the learned Judicial Magistrate. Accordingly, I.T.P of the accused Amjad @ Zakir was supervised/held by learned Judicial Magistrate at District Malir, Karachi through Victim Maria. Following which, custody of the accused Amjad was handed over back to Him by the Court.

He then went back to P.S Shah Latif, Karachi where He sent back the accused into the Lockup of PS. After which, he went back to his office. Then, on 26.04.2018, He produced the custody of arrested accused Amjad @ Zakir before the Administrative Judge of ATCs at Hon'ble High Court of Sindh at Karachi for seeking his PC Remand wherefrom, He obtained Five (05) Days PC Remand. Then, on 29.04.2018, SIP Saheb Khan (I.O of Crime No. 236/2018 U/s 363/511 PPC of P.S Shah Latif) took the accused Amjad @ Zakir from Lockup of P.S to Jinnah Hospital, Karachi for his Potency Test. Accordingly, vide MLC No. J-4211/2018, Potency Test of the accused Amjad @ Zakir in this FIR was conducted by concerned MLO, JPMC, Karachi. **The copy of the subject MLC was also obtained by Him from SIP Saheb Khan.** He had seen such MLC at Ex. 15/B and verified it to be same and correct. After which, on 30.04.2018, He again produced the custody of accused Amjad @ Zakir before the Hon'ble Administrative Judge of ATCs, Karachi Division wherefrom the accused was



remanded to Jail Custody and vide entry No. 848 at 1555 hours, He had handed over the custody of present accused to the Jail Administration of Central Prison, Karachi. On having sought Approval/Permission on his Report U/s 168 Cr.P.C, He submitted his Charge-Sheet against the present accused before the Court of law on 11.05.2018. **The Accused was rightly identified by this Witness in Court.**

In Cross-Examination, He denied the suggestion that he had not made ASI Abdul Rehman as Witness in this case. He again affirmed that He had re-arrested the present accused in this case while he was already arrested in FIR No. 236/2018 of P.S Shah Latif, Karachi. **He fully denied the suggestion that in the instant FIR, he had not taken Sample of Blood of accused Amjad. He also fully denied the suggestion that He was not deposing True Facts.** He also stated that the Father of the Victim had already divorced the Mother of the victim and due to this, Father of the Victim was not residing with her at that time.

Note: During Evidence, learned defence counsel put a question to this Witness regarding Makaan Number of the Place of occurrence, to which, He replied that Place of occurrence is situated at Labor Square, Sukkun, Karachi.

He denied the suggestion that Place of occurrence is a thickly populated area. Besides, he affirmed that there are other Flats located around the place of occurrence. He also affirmed that in Ex. 08/B prepared by SIP Muhammad Tayyab, there is a Private Mashir namely Mst. Farzana. He affirmed that Mst. Farzana is the Mother of the Victim. **He fully denied the suggestion that both signatures of Mashirs are not at proper place in Ex. 08/C. Likewise, he fully denied the suggestion that neither, he visited the place of occurrence nor, the accused led them towards the Crime Scene. He fully denied the suggestion that entire Proceedings shown in Ex. 08/C were done at P.S. Similarly, he denied the suggestion that Witness of I.T.P (Ex. 14/A) was already shown the accused by Him at P.S.**

He admitted that I.T.P. of the accused Amjad was conducted after 14 Days of his arrest. **He fully denied the suggestion that at the time of arrest of the accused Amjad in this case, he was carrying one ATM Card with Cash of Rs. 40,000/- including**





Cheque Book, Dowry Articles of his Sister with Mobile Phone and a CNIC in the name of accused Amjad and likewise, he denied the suggestion that the above Articles are still lying at P.S Shah Latif, Karachi.

Besides, He stated that on 07.04.2018, he took the Sample of the Accused and on the same day, it was sent to LUMHS, Jamshoro for Analysis and Matching/Report. **He fully denied the suggestion that in view of the first Sample, all the remaining cases were foisted upon the accused Amjad. He also denied the suggestion that neither, the accused Amjad is involved in this Rape case, nor, he committed such offence with the minor Victim. He fully denied the suggestion that due to pressure of his superiors, He fixed and challaned the present accused in instant FIR.**

PW-11 Aziz Ullah during his Evidence recorded at Ex. 18 deposed that in between the year 2014 to 2016 Rapes (Zina) were being committed with minor girls/victims and would be killed in the Area of Zafar Town and Qazafi Town of Shah Latif, Karachi. There was fear, terror and panic prevailing in the minds of Area People of Shah Latif, Karachi due to which, they were not sending their Children to Schools out of fear. One of the incidents of Rape also occurred with the Daughter of His Neighbor namely **Shahid** but, his daughter survived out of Rape incident. In between the year 2014 to 2018 His Statement was also recorded by the Police.

Note: This Witness was not cross-examined by the learned defence counsel albeit, full opportunity was given.



After Scrutinizing the Evidences of 11 PWs (highlighted supra), relevant Record (R & Ps) and hearing the Arguments advanced by learned APG for the State, learned counsel for the Complainant and learned defence counsel and the Case Laws, it crystal clearly transpires that the Minor Victim **Maria (PW-04)** during her Evidence had rightly identified the present Accused in Court as to be the real culprit who had committed Zina with her on the day of Incident in Her Friend's Home (Neighboring House of the Complainant) as in the instant case, the Evidence of Minor Victim is of great importance and the **Positive Identification** of the present accused by the Victim in Court fully connects him with the present case. **It is Noteworthy to mention here that during Evidence, Victim fully affirmed that**



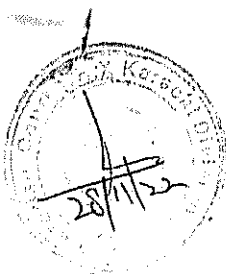
accused had pimples (Daane) on his face and she could identify him.

It is also worth mentioning here that during Trial, my learned Predecessor had observed that Minor Victim Maria had fear on her face and appeared to be in deep trauma after remembering the facts of the incident.

In the above context, the **Mental Intelligence** of the **Minor Victim Maria** was also observed at the time of her Evidence by my learned Predecessor, which is reflected in her Evidence (highlighted supra) as she gave **Rational Answers** of all the Questions put to her before recording her Evidence in Court.

The Victim is a School going Child studying in **Third Standard**, therefore, her Evidence appears to be fully Reliable and during her Evidence, she confidently narrated the Incident before Court. She was also subjected to Cross-Examination by the learned defence counsel but, she remained firm on her stance and Nothing was brought out on Record which could favor the present accused. During **Cross-Examination**, **Minor Victim Maria** fully denied the suggestion that she was told by Police persons after showing the accused at P.S regarding the spots on face of the accused for his identification. She also fully denied the suggestion that present accused did not commit any offence with her. Likewise, she fully denied the suggestion that She had wrongly identified the accused. Besides, while being crossed, Victim strictly denied the suggestion of learned defence counsel and reiterated that present accused is the same person who committed Zina Bil Jabr with her. She also fully denied the suggestion that accused was not present at the place of occurrence/House of Misbah. The Victim had again vehemently denied the above suggestion by stating that accused came to the House of Misbah and committed Zina with her. She also fully denied the suggestion that in presence of younger brother of her friend Misbah, her sister including other children, it was not possible to commit Zina with Her (Victim). On similar Point, **Minor Victim Maria** had informed the Court that prior to committing Zina with her, the present accused had locked the other children in Kitchen and Bathroom. Furthermore, She also fully denied the suggestion that accused had not locked down other children in Kitchen cum Bathroom before committing Zina with

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Moreover, during the course of Investigation, **Victim Maria** along with her Mother also pointed out the Place of Incident where, the Incident of Rape took place and in her presence including her Mother's presence, **SIP Muhammad Tayyab (PW-05)** being First I.O had found and secured one Salty colored child cloth containing blood, which was accordingly sealed at the spot as Case Property. Then, **SIP Muhammad Tayyab** penned down a Letter addressed to his SSP for sending the recovered blood stained child cloth to DNA Lab, Jamshoro for its analysis.

The Ill-fated Rape Incident as narrated and described by the **Minor Victim Maria** has been further corroborated through **Medical Evidence** in the Shape of **Medico Legal Certificate** and **Final Medico-Legal Report/Opinion** of Victim as produced by **PW-01 Dr. Aiman Khursheed** during her Testimony in Court, who narrated that on 02.02.2018, at 03:14 PM, She was posted as WMLO at JPMC, Karachi. On said day, ASI Khamiso Khan Channa of P.S Sukhan, Karachi brought a girl namely **Maria D/o Muhammad Shakeel**, aged 08 years with a request of her Medical Examination vide **Police Letter** dated 02.02.2018. Upon Examination of Victim namely **Maria D/o Muhammad Shakeel**, She opined as follows:-

OPINION

In Her opinion, she (Minor Victim) is not virgo intacta, she has had sexual intercourse. However, for any fresh act, four vaginal swabs had been sent for DNA and Chemical Analysis. Referred for gynae opinion.

Besides, on 05.02.2018, **SIP Muhammad Tayyab** obtained the Swab Slab from Lady MLO and was handed over by him to Chemical Examiner. On the same day, he issued a Letter addressed to Incharge Chemical Examiner and in response to his Letter, He obtained Report from Chemical Examiner.

With reference to the above context, **Chemical Examiner's Report** pertaining to **Two (02) Vaginal Swabs of Victim Maria** was produced in Court by **PW-05 SIP Muhammad Tayyab** at **Ex. 10/F**. The **Result** of Chemical Analysis reveals that:-

"Human Sperm as well as Human blood detected in the above mentioned article No. (01)."



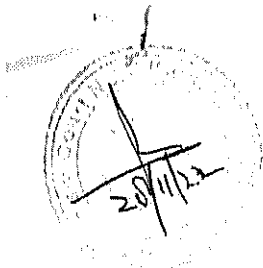
The above referred **Positive Result** of Chemical Analysis of the Articles (Case Property) has given corroboration to the case of the Prosecution.

Whereas, as per Findings (Final Opinion) of WMLO in the light of **Chemical Analysis Report No. S-60/2018, Human Sperms were detected on Vaginal Swabs. Hence, the Medical Evidence stands parallel to the version of the Victim Maria.**

Without any Doubt, the Evidence of **Victim Maria** is reliable and confidence inspiring as she disclosed the time, date and place of Incident thoroughly during her Evidence which finds corroboration through Circumstantial/Further Evidence.

In this relevancy, I have relied upon a Case Law reported in **2017 P.Cr.L.J. 452 [Lahore (Rawalpindi Bench)]** wherein, it was held as under:-

“Sole Statement of Victim--Evidentiary value--Marks of Violence not necessary to prove rape--Statement of the Prosecutrix/victim was well corroborated with the medical history brought on record by a doctor, who had examined the victim and prepared the Medico-Legal Report--Report of the Chemical Examiner showed that sexual assault had taken place with the victim--Statement of the victim was straightforward, and the same had narrated the entire incident in a very innocent and natural manner, and the accused had failed to establish any exaggeration therein--Marks of violence were not necessary to prove the factum of rape--Appeal against conviction was dismissed accordingly.”



Besides, I have also fortified my Views from another Case Law reported in **2018 P.Cr.L.J. 1275 (Balochistan)** wherein it was held as under:-

(a) “Facts remained that the crime had taken place in the abandoned Area, where the presence of general public or third person to witness the crime was not possible--Prosecution had produced direct and medical evidence against the accused--Accused had failed to take any specific step regarding false implication Medical

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evidence was in line with the ocular testimony-- Prosecution had produced corroborative and confidence inspiring evidence and the defence had failed to cause any dent in the evidence of Prosecution."

- (b) "In presence of direct evidence supported by medical evidence, report of serologist was always deemed to be corroborative piece of evidence."
- (c) "Slight contradictions in the statements of witnesses who were minors--Effect--Record showed that accused remained fugitive from law for a decade--Witnesses, who were minors were not expected at the relevant time, to give tape-recorded statement after lapse of such a long period--Memories became fade after lapse of some time-- Minor or slight contradictions in the statements of such witnesses were not fatal."
- (d) "Evidentiary value--In case of sodomy or Zina, the solitary statement of the victim was sufficient to convict the accused."

In yet another Case Law reported in 2020 MLD 588 (Lahore) it was held that:-

"Besides, there was no time or occasion to manipulate semen stains on victim's clothes--Clothes of victim were sent for Chemical Analysis and DNA by Lady Medical Officer--Report of the Chemical Examiner showed that her Clothes were stained with semen--Semen found on victim's clothes and shalwar of accused was of the group of accused--Observation by Lady Medical Officer during medico-legal examination of victim clearly made out that the victim had been subjected to rape as stated by the victim--After short span of the incident, medical examination of the victim and accused was conducted and DNA Report was positive--Medical evidence had corroborated the evidence of the victim--Testimony of victim was cogent and credible not only due to her social background but also due to the fact that her version had been clearly corroborated by the other materials--Appeal was dismissed."

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Moving forward, the Vaginal Swab, Clothes of **Victim Maria** along with Blood Samples were sent for **DNA Analysis** by the I.O in the present case crime during the course of his Investigation and when the present accused was arrested, his Blood Samples were also taken, which were accordingly preserved for "**Matching**" purpose with **Minor Victim Maria's** Profile.

In this respect, Prosecution had relied upon **PW-02 Muhammad Hussain Soomro** (**Forensic DNA Analyst, Focal Person of DNA Laboratory, LUMHS Jamshoro**), who during his Testimony deposed that He is a Forensic DNA Analyst. Currently, he is posted at Forensic and Molecular Biology Laboratory for DNA Testing, LUMHS, Jamshoro. On 03.02.2018 and 09.02.2018, He had received case property of FIR No. 34/2018 U/s 376 PPC of P.S Sukkun, Karachi, District Malir, Karachi including HVS, clothes and blood sample of victim namely **Maria D/o Muhammad Shakeel**, cloth recovered from the crime scene along with blood sample of accused Amir S/o Fazal ur Rehman and Asif S/o Ghulam Abbas. He had received above case property through Letter of SSP Investigation-II, East Zone, Karachi regarding DNA Test of victim and suspects, dated March, 2018. He produced such Letter at **Ex. 07/A** and verified it to be same, correct. In this case, Male DNA Profile obtained from semen stains/sperm fraction identified on clothes of the victim and light grey colored kameez recovered from the crime scene did not match with suspects named above and DNA Profile of unknown male (obtained from the clothes of victim and grey colored kameez recovered from the crime scene) was preserved. Accordingly, He issued such DNA Report, bearing No. 169/2018, dated 06.04.2018, which He produced at **Ex. 07/B** and verified it to be same, correct and bearing his signature.



He further deposed that on 07th April, 2018 He had received blood sample of accused **Amjad Ali S/o Khairat Ali** by hand from ASI Abdul Rehman of P.S Sachal, District Malir, Karachi vide Letter No. 1128 issued by SSP Investigation-II, East Zone, Karachi, dated 07.04.2018, which He produced at **Ex. 07/C** (**copy, since the original has already been produced in Special Case No. 632/2018 against same accused Amjad**) and verified it to be same. According to him, Sample was collected by Medico Legal Officer, JPMC, Karachi.

With reference to the above context, it is pertinent to

JPMC, Karachi after conducting Medical Examination of the present accused drew his **Blood Sample**, which was accordingly, sealed and labelled by him and also handed over to the Police official for the purpose of **DNA Test** of the present accused in the instant case crime, vide **MLC No. J-3536/2018**.

More Importantly, as per the **Result of PW-02 (Forensic DNA Analyst) the above preserved Male DNA Profile found on clothes of victim namely Maria D/o Muhammad Shakeel viz. grey colored Kameez recovered from crime scene shares the required Alleles with the DNA Profile obtained from blood sample of Amjad Ali S/o Khairat Ali.**

Accordingly, He issued such DNA Test Report bearing No. 226/2018, dated 09.04.2018. He produced the attested Photostat copy of above mentioned final DNA Report (containing Two leaves as its original has been produced in Special Case No. 632/2018 in which the same accused is arrested) at Ex. 07/D and verified it to be same, correct and bearing his Signature.

Besides, the Perusal of such **DNA Test Report** further reveals that:-

"The DNA Profile obtained from Item: 1.0 [Blood sample of accused Amjad Ali @ Zakir] shares the required alleles with the male DNA Profile obtained from the evidences of 05 sexual assault cases mentioned as above." Moreover, as per Conclusion of DNA Analysts of LUMHS, Jamshoro, **"Mr. Amjad Ali S/o Khairat Ali. (Item 1.0) is the contributor of Male DNA/Sperm fractions identified on all the mentioned above evidences of sexual assault case of District Mallr, Karachi."**

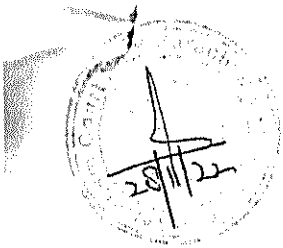
The above highlighted **DNA Test Result** of the present accused is a Significant Piece of Evidence which has given major corroboration to the case of the Prosecution. In this regard, I have placed reliance upon a Case Law reported in **2016 MLD 129** wherein, it was held as under:-

"Accused was convicted by Trial Court and sentenced to Imprisonment for Life. Validity of DNA Report received by

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of Victim matched with DNA Profile obtained from Sample of Accused. Nobody had witnessed the occurrence but strong circumstantial evidence was available which led to the conclusion that it was accused who had committed the crime. No plausible explanation was furnished to establish that the Complainant had involved the accused in commission of alleged offence on account of ill-will or enmity or for any ulterior motives. Prosecution had succeeded in Proving its case beyond reasonable doubt against accused. High Court declined to interfere in conviction and sentence awarded to accused by trial court. Appeal was dismissed in circumstances."

Furthermore, Complainant **PW-03 Mst. Farzana** during her Evidence in Court gave full corroboration to the Victim's version being her Mother, which inspires confidence and She affirmed before the Court that on the day of Incident, She received a call from one of the Mohalla person at about 01:30 PM. The caller informed that Her daughter namely Maria had been raped by some person behind their house at a neighbor's House for performing the Prayers. Soon after receiving such information, She immediately left her company and rushed towards her House and when she reached near her House, She found people who had gathered. She, firstly met with Akhtar Bhai and Shahid Bhai from Mohallah who also informed her that her daughter was raped at a House situated at Bhens Colony, Labor Square Karachi with House No. NH-183 and she (Victim) was at JPMC at that time. Thereafter, Minor Victim was taken by them to JPMC, Karachi where, She found her daughter namely Maria in ICU of JPMC, Karachi and she was under treatment. Then, one Lady Doctor came to her and prepared MLC so also obtained her Thumb Impression on it. She had affirmed that the Police also recorded Her Statement U/s 154 Cr.P.C. at Gynae Ward.



Besides, the Complainant along with Her Minor Daughter (Victim) had gone to the Place of Incident where on the Pointation of the Victim, I.O conducted its Inspection and at that relevant time, I.O also secured/collected blood stained Child Cloth from the Crime Scene and Complainant had also acted as a Mashir of Memo of Pointation of Place of Occurrence whereas, She also brought her **Minor Daughter Maria** (Victim) in Court for the purpose of Identification of the present ~~Accused during I.P.D. whereby, the Victim rightly identified the present~~

(105)

accused in Court as to be Actual Culprit who had committed Rape with her. **It is worth mentioning here that Complainant was subjected to lengthy cross-examination by the learned defence counsel however, Nothing came out from Her Mouth, which could favor the present accused** and this Evidence furnished by the Complainant is further corroborated by the Evidence of learned Judicial Magistrate whereby, on **24.04.2018**, PW-07 Mr. Mir Sagar Khan the then learned Vith Civil Judge/Judicial Magistrate, Malir, Karachi held/supervised **Identification Test Parade** of Present accused through **Minor Victim Maria** during which, She rightly pointed out and identified present accused amongst the row of Dummies as to be the real culprit, who committed Zina with her and during such I.T.P, she specifically stated as follows:-

"This was the Accused (referred to Present Accused) who forcibly entered into her Friend's Home where, She went to offer Prayers. She further stated that accused had locked Them all inside the Kitchen and took Her into the Room and asked Her to keep quiet otherwise, He would kill her (Victim). Thereafter, the accused pulled her Trouser down and committed Sexual Intercourse."

In this respect, Memo of I.T.P. of present accused was also prepared by the learned Judicial Magistrate, which he produced in Court at **Ex. 14/A** and verified it to be same, correct and bearing his Endorsement, Signature, official Stamp and Certificate.

Another Important Aspect of the Prosecution's case is that on **02.03.2018**, a Meeting was held wherein, SSP Malir, Khalid Khan being SDPO Sachal and Final I.O. of this case namely **PW-10 DSP Ali Hassan Shaikh** were called by DIGP East. In the said Meeting, it was discussed that in Five (05) FIRs pertaining to Rapes of Victims of District Malir, a common accused is involved, which was ascertained through LUMHS, Jamshoro where, Samples were referred and sent for their Examination and Report.

Following which, **on 07.04.2018, another Meeting was called by DIGP in pursuance of instant FIR and similar cases of Rapes, wherein, DIGP got information through call that a Person had been apprehended, who had abducted a minor Girl and was taking her away for committing Rape (Zina) but, he was caught by**



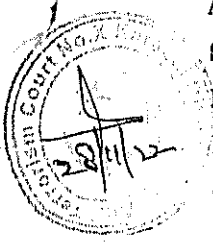
(107)

accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and at the time of his handing over to the Police of P.S Shah Latif, Karachi for proper arrest, wherefrom, he was referred to Jinnah Hospital, Karachi.

Moreover, during such Meeting, it was further informed to DIGP that FIR No. 236/2018 U/s 363/511 PPC at P.S Shah Latif, Karachi was also registered against the said apprehended accused. Accordingly, in the said Meeting, Final I.O of this case DSP Ali Hassan Shaikh and DSP Khalid Khan (I.O of other Rape Cases) were directed by DIGP to go to Jinnah Hospital, Karachi so as to interrogate the said apprehended accused.

Thereafter, upon reaching at Jinnah Hospital, Karachi Final I.O of this case and DSP Khalid Khan (I.O of other Rape Cases) found an Accused over there, who was lying in injured condition. On query, said Person disclosed his identity as to be Amjad @ Zakir S/o Khairat Ali (Present Accused herein). At that time, Doctor advised them not to interrogate him due to sustaining injuries. At JPMC, Karachi Final I.O of this Case had also obtained/collected Documents in the shape of MLC No. 3333/2018, dated 07.04.2018 and Emergency Slip of Jinnah Hospital as well as Blood Sample of injured accused namely Amjad @ Zakir from SIP Saheb Khan, the then I.O of FIR No. 236/2018 U/s 363/511 PPC of PS Shah Latif, Karachi.

Subsequently, on the Information furnished by **SIP Saheb Khan**, on **10.04.2018**, at **1300 hours** Final I.O/DSP Ali Hassan Shaikh went to P.S Malir Cantt, Karachi vide Entry No. **22**, where inside the Room of Duty Officer of **P.S Malir Cantt, Karachi**, present Accused being already arrested in Case Crime No. **236/2018** of **P.S Shah Latif, Karachi** was **Re-Arrested** in the present case by Final I.O **DSP Ali Hassan Shaikh** under a Fard of Re-Arrest in presence of Mashirs upon disclosure and admission of present Accused for committing the instant offence of Zina with the **Minor Victim Maria**.



Thereafter, on **23.04.2018**, at about **1930 hours**, Present Accused voluntarily led the Police party headed by **DSP/IO Ali Hassan Shaikh** and pointed out the Place of committing Zina with the minor Victim **Maria** and such Fard of Pointation of Crime Scene by accused was also prepared by the I.O at the spot in presence of Mashirs.

The Evidence led by the Prosecution also transpires that **PW-08 Dr. Nazeer Ahmed Malik, the then SMLO, JPMC, Karachi** had conducted **Potency Test** of the Present Accused on **29.04.2018**, at **02:00 PM** and after Examination, he came to an opinion that:-

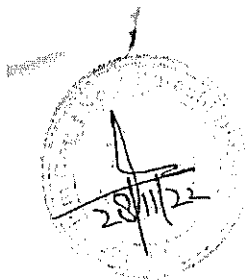
"Present Accused is capable to do intercourse as present and He is potent in normal course of life."

From the above highlighted Facts and circumstances of the case in hand, it is crystal clearly Evident that present Accused is Involved in Five Cases including present Case of same Nature and his DNA Profile has matched with Five Samples taken from Victims being Minor Girls which includes the Victim of this case. This Prima Facie shows that such type of Heinous Offences are increasing day by day.

In the present case, Minor Victim Maria was a Student of Fourth Standard at the Time of reported Incident and as per Victim's own Evidence, prior to this incident, She was in Fourth Class and after the incident, still She was in IIIrd Standard and due to act of the present accused, he had destroyed her studies. Presently, She is studying in Al-Manzoor Education Academy situated in Shah Latif Town, Karachi in IIIrd Standard. It is also worth mentioning here that during Trial, my learned Predecessor had observed that Minor Victim Maria had fear on her face and appeared to be in deep trauma after remembering the facts of the incident. More Importantly, the Minor Victim Maria during her Evidence prayed to Court that accused has committed wrongful act with her and he is liable to be Penalized/punished.

Hence, it is crystal clearly apparent on the face of Record that present accused by committing such **heinous offence of Rape** not only affected the **Minor Victim Maria** physically, mentally and Socially but, such heinous act committed by the present accused also **Ruined the Studies of Minor Victim Maria** and such Facts were also affirmed by the Minor Victim in her Testimony before the Court (as highlighted supra).

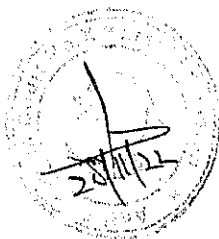
Besides, it is also apparent from the perusal of Evidence led by the Prosecution that Parents do not take care about their Children and it was observed that Time is a very Crucial Essence in





such Type of Heinous offences. It is further emphasized here that on the day of Incident at 08:00 AM, Complainant had gone to her Duty at Factory after leaving her Daughters at House (Without any Precautionary Measures) and afterwards, at 1300 hours such Ill-Fated Incident of Rape occurred with Minor Victim Maria that too, at her Friend's Home (Neighboring House), where She had gone to offer Prayers.

From the perusal of Evidence furnished by **Minor Victim Maria** and her Mother namely **Mst. Farzana (Complainant)** it transpires that the Victim at the time of reported Incident along with other Children were present/available in the Neighboring House of the Complainant to offer collective Prayer but, to my utter surprise, at that relevant time, No Elder Members of the Children's Families were present there for their Supervision. Even, the Elder Woman namely **Mst. Khadija** was not present at the House of Victim's Friend to look after them. Furthermore, perusal of Evidence adduced by the Victim depicts that on the day of Incident, Her Mother had gone to Factory and Victim with her Sisters were left all alone at the House by their own and afterwards, **Minor Victim Maria** and her Sister had gone to backside of their House for offering collective Prayer since, it was Friday. It is worthwhile to mention here that Neither Victim's Mother had forbidden her Children to go Anywhere outside their House or to someone else's House Nor, she had directed them to remain present in their House with locked Door. This shows the Negligence on the part of Complainant being Victim's Mother. Even, when the **Minor Victim Maria** along with her Sister went to her Friend Misbah's House, **No Lady or Elder Member** of that House was present there in order to look after the Children, who had gathered there for offering collective Prayer and due to their Tender Age being Innocent, Children are not Intelligent/Sharp and consequently, on the said Day, at about **01:00 PM when the Victim and her Sister reached the House of her friend Misbah, her younger brother opened the door and one person appeared outside the house wearing light blue colored Shalwar Kameez who asked her friend Misbah for showing/visiting her House. To which, she replied that at that Time, nobody was available inside the House. Then, said person returned back from there and as per Victim's own Testimony, at the same time, the said person again appeared after about 05 to 10 seconds when They were inside the House. Soon after opening the gate by**

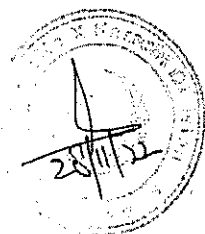


inside Misbah's house. Thereafter, said Person had locked Them in the Kitchen cum Bathroom. They were making hue and cry at that time due to above act of the said Person to which, said Person Slapped Her (Minor Victim) and he said that if, They made hue and cry/shouting he would shoot Them with Weapon. After seeing all the children, He (referred to Present Accused) called her (Minor Victim) and he took off her worn Shalwar and committed Zina (Ghalat Kaam) with Her. Thereafter, He fled away from the Scene.

It is Noteworthy to mention here that the present accused is so Clever that even on a single glance, He had understood that No Elder Member was present in the said House (Place of Incident) and as per Victim's own Testimony, soon after she entered Misbah's House, within Two Minutes this incident took place. This clearly suggests Negligence on the part of Parents regarding safety and Supervision of their Minor Innocent Children.

Again, it is pointed out here that on the day and time of Incident, it was Jumma Prayer Time and Elderly Members of the Families, Mostly Men had gone to Masajid for offering Jumma Prayer and usually at that particular Time, Streets remained wearing a Deserted Look and by taking benefit of such Time and Event, the present accused to be more elaborate, a Predator forcefully entered the House of Victim's Friend Misbah and committed such Gruesome Act of Rape with **Minor Victim Maria** and easily fled away from the Crime Scene.

Apart from the Evidences of Minor Victim and Complainant, the Prosecution has also relied upon other Circumstantial Evidence in the Shape of Testimony of **an Independent/Private Witness viz. Local Resident** of the Area, in order to strengthen its Version.



PW-11 Aziz Ullah during his Evidence recorded at **Ex. 18** deposed that in between the year 2014 to 2016 Rapes (Zina) were being committed with minor girls/victims and would be killed in the Area of Zafar Town and Qazafi Town of Shah Latif, Karachi. There was fear, terror and panic prevailing in the minds of Area People of Shah Latif, Karachi due to which, they were not sending their Children to Schools out of fear. One of the incidents of Rape also occurred with the Daughter of His Neighbor namely **Shahid** but, his daughter survived

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out of Rape incident. In between the year 2014 to 2018 His Statement was also recorded by the Police.

The above highlighted Testimony of the Local Resident of the Area also finds corroboration from the Evidence furnished by **PW-10 DSP Ali Hassan Shaikh** (Final I.O of this case) as per whom, during the course of Investigation, he had visited the place of occurrence pertaining to instant FIR whereby, he found that Area People were under Fear/Terror, due to which, they were hesitant in sending their Children to Schools/Madressahs. He also visited Schools and Madressahs of the Area, so also met with Teachers where, he came to know that attendance of Children had reduced/lessened a lot, due to frequent incidents of Child Rapes at that time in the Area. Accordingly, he recorded Statements U/s 161 Cr.P.C. of Teachers and People of the locality and due to element of fear and terror, he added/inserted Section 7 of ATA, 1997 in this case.

While going through the Facts and Evidence, it was observed that these Types of Atrocious Crimes are increasing day by day and upon reading Newspapers, we find that such Incidents are very frequently occurring in every corner of our Country and to Curb such Ghastly Incidents, Police and other Authorities would have to frame Strong Policies and in my Suggestion, Awareness is to be necessarily given in Schools, MasaJid and more specifically to the Parents of Minor Children that they should Never leave their Innocent Children at Homes all alone or even Allow them to go Anywhere outside their Homes all alone at odd Hours of Day/Night for any Purpose whatsoever and it is also needed to be emphasized here that Parents should strictly forbid their Children to take Anything from Strangers.

28/11/22

However, it is very astonishing to note here that Police had not taken serious Efforts even after lodging of instant FIR to trace out and Arrest the Perpetrator of such Gruesome Offence of Rape and First I.O of this case namely **PW-05 SIP Muhammad Tayyab** after completing 14 days Investigation declared the Case under A-Class for its approval. This shows that the Perpetrator of such Heinous offences was roaming freely in the Area and was not nabbed by the Police promptly, which raises question on the Efficiency of Police as no serious/Hearty Efforts were shown to have been taken in this regard

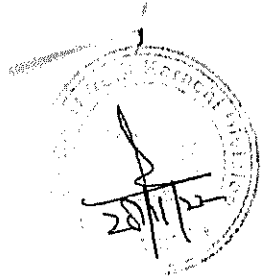
albeit, Panic and Fear prevailed in the Area and People were reluctant to send their Minor Children to Schools and Madressahs.

On the contrary, as per Record, on 07.04.2018, in another Meeting called by DIGP in pursuance of instant FIR and other case crimes, DIGP got information through call that a Person had been apprehended, who had abducted a minor Girl and was taking her away for committing Rape (Zina) but, he was caught red handed by the People of the Area on the hue and cry of Victim. The said accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and at the time of his handing over to the Police of P.S Shah Latif, Karachi for proper arrest wherefrom, he was referred to Jinnah Hospital, Karachi. This shows the efficiency of Police.

Nevertheless, in the present case, **Minor Victim Maria** intelligently gave Rational Answers of all the Questions put to her during her Evidence. The Victim is a School going Child currently studying in Third Standard and her Evidence appears to be fully Reliable and during her Evidence, she confidently narrated the Incident before Court. She was also subjected to lengthy Cross-Examination by the learned defence counsel but, she remained firm on her stance and Nothing was brought out on Record which could favor the present accused. Furthermore, the Ill-fated Rape Incident as narrated and described by the **Minor Victim Maria** is being fully corroborated through Medical Evidence and Positive DNA Test Result (highlighted supra).

In the above context, I have relied upon a Case Law reported in 2015 YLR 249 wherein, it was held that:-

Testimony of Child Witness, which was straightforward, reliable and confidence inspiring could not be thrown away, merely on the ground that he was solitary witness of the incident, when the law permitted a Fact to be proved through the statement of single witness, there was no reason or logic to call more witness than one. Conviction could be awarded on the basis of solitary statement and sentence recorded by trial court against accused was maintained in circumstances.



Besides, I have also fortified my above views from another Case Law reported in 2010 YLR 2400 wherein, it was held that:-

"No doubt, conviction could be recorded/based on the testimony of a child witness however, the same had to be consistently credible, confidence inspiring and straightforward and be duly corroborated by other circumstantial and Medical Evidence. Evidence of a Child Witness, in circumstances would require corroboration and could not in Isolation be basis of any conviction."

Besides, the Complainant being Mother of **Minor Victim Maria** also gave full corroboration to the version furnished by the Victim by narrating all the Material Details pertaining to the Incident. In addition to the Evidence of Minor Victim, Medical Evidence and Testimony of Complainant, the Prosecution also relied upon other Circumstantial Evidence in the Shape of Testimony of **an Independent/Private Witness viz. Local Resident** of the Area, in order to strengthen its Version and his Testimony has already been discussed/highlighted supra wherein, He fully confirmed the Incident of Rape with **Minor Victim Maria** and also specified that due to such Incident, there was fear, terror and panic prevailing in the minds of Area People and resultantly, they were not sending their Children to Schools out of fear.

Perusal of Evidence adduced by the Victim Maria further transpires that at the time of Incident, the present Accused forcibly entered into her Friend's Home where, She went to offer Prayers. Then, the present accused had locked Them all inside the Kitchen and took Her {Victim} into the Room and asked Her to keep quiet otherwise, He would kill her {Victim}. Thereafter, the accused pulled her Trouser down and committed Sexual Intercourse. Hence, the aspect of Kidnapping of Minor Victim is found silent on the face of record. Therefore, Section 363 PPC {inserted/added by the I.O in Challan} does not attract to the Facts and Circumstances of this case.

Moreover, during the Arguments, learned defence counsel argued that admittedly, there was a Gadda {Mattress} available at the spot however, the same was not collected/secured by the Police from the Crime Scene as Case Property. In this respect, I would like to refer

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to **Cross-Examination of PW-05 SIP Muhammad Tayyab** whereby, he explained that on the floor, a Mattress was lying whereby clothes were seen in the bag and since, no crime was committed on Gadda/Mattress, therefore, the same was not produced before this Court. He also stated that the Zina was committed in the Room whereby the Mattress was lying. Hence, such contention raised by learned defence counsel has become devoid of any force.

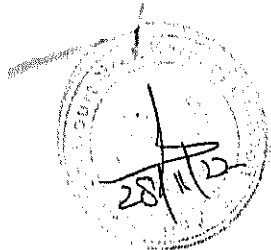
During the Arguments, learned defence counsel had also raised the contention that it was admitted by the WMLO that No Marks of Violence were seen on any part of the Victim's Body, which according to the learned damaged the case of Prosecution. Moreover, it was also asserted by the learned defence counsel that consent of the present accused was not taken in respect of conducting his DNA Test and obtaining his Blood Sample.

In this relevancy, perusal of Medico-Legal Certificates show that admittedly, no Marks of Violence were noted on any part of the Victim's Body however, as per opinion given by WMLO in the Provisional MLC of Victim, Fresh Act of Sexual Intercourse had been committed on the Minor Victim and as per Final MLC, WMLO opined that as per Chemical Analysis Report No. S-60/2018, Human Sperms were detected on Vaginal Swabs.

Perusal of Evidence further depicts that Minor Girl Maria aged about 08/09 Years was feeble and She being a Victim could not even put up any Resistance at the time of commission of Rape with her by the present Accused as He had specifically threatened to Kill Her [Victim] if, she made hue and cry.

With reference to the above context, I sought guidance from a Case Law reported in **2018 MLD 1164 (Sindh)** wherein, it was held as under:-

(b) "Sole Statement of Victim--Evidentiary Value--Marks of violence not necessary to prove Rape--In the present case, though DNA Test was not conducted to establish nexus with the sperm found, but the solitary statement of Victim, which was confidence inspiring was sufficient to award conviction--Circumstances established that accused



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committed rape with the complainant--Appeal against conviction was dismissed in circumstances."

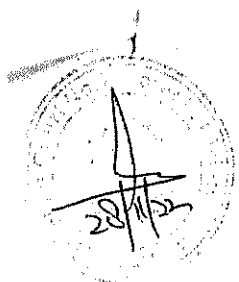
(d) "S. 376---Rape---Appreciation of evidence---No sign of violence---Allegation against the accused was that he committed rape with the complainant---Defence had alleged that no signs of violence were noticed on the victim and as such a case of rape was not made out---Validity---Mere absence of injuries on the body of a victim of rape was not enough proof of the crime not having been committed---Rape could be committed without injuries by putting a victim under fear."

Hence, keeping in view the above referred Dictums laid down by the Hon'ble Apex Court, the Objections raised by the learned defence counsel as regards to No Marks of Violence on any part of the Victim's Body causing damage to the case of the Prosecution, have become devoid of any force.

So far as the contention raised by the learned defence counsel that consent of the present accused was not taken in respect of conducting his DNA Test and obtaining his Blood Sample, in this regard, I have relied upon a Case Law reported in **2013 SCMR 203** wherein, it was that:-

"Consent of accused was not required for conducting DNA Test or any blood test in order to ascertain the truthfulness of the allegation."

Hence, keeping in view the above referred Dictum laid down by the Hon'ble Apex Court, the Objections raised by the learned defence counsel as regards to consent of the present accused not been taken in respect of conducting his DNA Test and obtaining his Blood Sample, have become devoid of any force.



It is Noteworthy to mention here that in such Types of Cases i.e. Rape of Minor Girls {376 PPC}, the Evidence of Victim/Girl is of great importance. In the present case, **Minor Girl/Victim Maria** disclosed the Incident with Time, Date and Place which fully confirms that such ill-fated Incident had happened. Furthermore, Victim rightly identified the present accused during I.T.P. and also positively identified the present accused before this Court during her Evidence

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and it was specified by the Victim that accused had pimples (Daane) on his face and she could identify him. Hence, Statement of Victim is reliable and confidence inspiring. In this regard, Medical Evidence (highlighted supra) gives corroboration to the version of the Victim as she was promptly brought to **JPMC** for her Medical Examination and Treatment.

With reference to the above context, I have fortified my views from a Case Law reported in **2013 YLR 866** wherein, it was held that :-

“Version of the Victim corroborated with the evidence of Medico Legal Report that she has been subjected to fresh act of sexual intercourse. Charge proved without any shadow of doubt.”

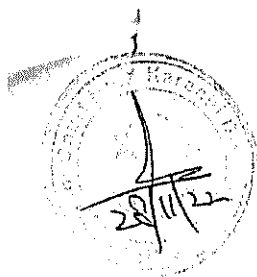
In the present case, the version of **Minor Victim Maria** appears to be crystal clearly reliable and confidence inspiring, which finds corroboration from Medical Evidence since, as per Opinion of WMLO, Fresh Act of Sexual Intercourse had been committed on the Victim and her Clothes were sealed for Chemical Analysis and for DNA Analysis, so also Vaginal Swabs including Blood stained Clothes were taken, the Report of which is Positive including Positive **DNA Test Report** (highlighted Supra).

Besides, I have placed reliance upon another Judgment wherein **Hon'ble Apex Court** upheld the Conviction and it was held that:-

“The solitary statement of Victim is sufficient for conviction of accused under Tazir, if it is inspired confidence and found necessary corroboration from an Independent source. In the present case, besides unexplained extremely long abscondence of accused, independent corroboration of testimony of the victim is abundantly available on record. Nothing is to doubt the veracity of deposition made by the Prosecution Witnesses. Alleged contradictions are very minor in nature and does not affect the main case in any way.”

[Reliance is placed upon Case Law reported in **2014 P.Cr.L.J. 1280**]

Here, in the present case, **Minor Girl Maria** is the Victim



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the present accused before Court and during I.T.P. and furnished her Testimony in such a way, which is direct and confidence inspiring being fully supported by Medical Evidence, Forensic Laboratory Report followed by other Circumstantial Evidences.

Another aspect of the Prosecution's case which needs to be discussed here is that during Evidence, some Documents pertaining to this case were produced by relevant PWs in Shape of **Attested Photostat Copies** since, the **original Documents** of such Attested Photostat Copies had already been produced during Evidence in a **similar Rape Case** against the present accused pending before this Court viz. **Special Case No. 632/2018** and in all, there are **Four Cases** pending before this Court against the present accused including instant case involving Rape of Minor Girls, whereas, one Rape Case against the present accused has already been disposed of by this Court. It is worth mentioning here that during Evidence, learned defence counsel did not raise any Objection regarding production of Attested Photostat Copies of the relevant Documents instead of original ones due to the Reason referred to above, however during Arguments, he raised such Objection at belated stage, which is devoid of any force.

Apart from the above, Testimony furnished by **PW-10 DSP Ali Hassan Shaikh (Final I.O of this case)** transpires that in the Month of March, 2018 He was posted in District Malir, Karachi as DSP. On 02.03.2018, a Meeting was held wherein, SSP Malir, Khalid Khan being SDPO Sachal and He himself were called by DIGP East. In the said Meeting, it was discussed that in Five (05) FIRs pertaining to Rapes of Victims of District Malir, a common accused is involved, which was ascertained through LUMHS, Jamshoro where, the Samples were referred and sent for their Examination and Report. Thereafter, in the said Meeting, Three (03) FIRs bearing No. 34/2018 registered at P.S Sukkun, Karachi, 334/2017 of P.S Quaidabad and 659/2017 of P.S Shah Latif, Karachi registered U/s 376/34 PPC were entrusted to Him for Investigation vide Order dated 02.03.2018, bearing No. DIGP/East/RDR/903/2018.

Besides, as per Final I.O of this Case, on 07.04.2018, another Meeting was called by DIGP in pursuance of instant FIRs, wherein, DIGP got information through call that a Person had been ~~arrested~~ who had abducted a minor Girl and was taking her

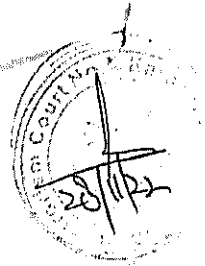
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away for committing Rape (Zina) but, he was caught by the People of the Area, on the huc and cry of Victim. The said accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and at the time of his handing over to the Police of P.S Shah Latif, Karachi for proper arrest wherefrom, he was referred to Jinnah Hospital, Karachi. It was further informed to DIGP that FIR No. 236/2018 U/s 363/511 PPC at P.S Shah Latif, Karachi was also registered against the said apprehended accused (which is Not Pending before this Court). Accordingly, in the said Meeting, **PW-10 DSP Ali Hassan Shaikh** (Final I.O of this case) and DSP Khalid Khan were directed by DIGP to go to Jinnah Hospital, Karachi so as to interrogate the said apprehended accused. On reaching at Jinnah Hospital, Karachi, They found an Accused over there, who was lying in injured condition. On query, said Person disclosed his identity as to be Amjad @ Zakir S/o Khairat Ali. At that time, Doctor advised them not to interrogate him due to sustaining injuries.

More Importantly, at **JPMC, Karachi PW-10 DSP Ali Hassan Shaikh** (Final I.O of this case) also obtained/collected Documents in the shape of Photocopies of MLC No. 3333/2018, dated 07.04.2018 and Emergency Slip of Jinnah Hospital as well as Blood Sample of injured Amjad @ Zakir from **SIP Saheb Khan**, the then I.O of FIR No. 236/2018 U/s 363/511 PPC of PS Shah Latif, Karachi (which is Not Pending before this Court). Due to this Reason, **PW-10** had produced Photocopies of Emergency Slip of Jinnah Hospital and MLC of accused at Ex. 17/B and Ex. 17/C respectively and verified them to be same and correct.

Following which, on 10.04.2018, SIP Saheb Khan of P.S Shah Latif, Karachi got noted through Phone that custody of accused Amjad @ Zakir had been shifted to PS Malir Cantt due to security measure and as per SIP Saheb Khan, during interrogation conducted by him, the accused Amjad @ Zakir disclosed and confessed to his guilt of committing Rapes with Five (05) minor Victims/Girls pertaining to the respective FIRs of Rape, so DSP Ali Hassan Shaikh was advised by him to interrogate the accused in his cases also. On such information furnished by SIP Saheb Khan, DSP Ali Hassan Shaikh along with DSP Khalid Khan went to PS Malir Cantt vide Entry No. 22, dated 10.04.2018 at about 1150 hours. He had seen such entry at Ex. 11/B and verified it to be same and correct. At P.S Malir Cantt, Final I.O of this case interrogated the accused Amjad @ Zakir in





crime No. 34/2018 of P.S Sukkun, Karachi, Crime No. 334/2017 of P.S Quaidabad, Karachi and Crime No. 659/2017 of P.S Shah Latif Town, Karachi during which, he admitted his guilt for committing the above offences of Rape with minor Victims.

As per **PW-10 DSP Ali Hassan Shaikh** (Final I.O of this case) since, the accused was already confined at Lockup of P.S Malir Cantt having been arrested in case crime No. 236/2018 U/s 363/511 PPC of P.S Shah Latif, Karachi therefore, He had re-arrested the present accused in Crime No. 34/2018 at P.S Sukkun, Karachi, Crime No. 334/2017 of P.S Quaidabad, Karachi and Crime No. 659/2017 of P.S Shah Latif Town, Karachi under a Fard of Re-Arrest in presence of Witnesses/Mashirs namely in presence of Witnesses/Mashirs namely **SIP Saheb Khan** and **ASI Arsalan Akbar (PW-06)**. He had seen **Ex. 11/C** (original Memo of Re-Arrest) and verified it to be same, correct and bearing his signature including signatures of Mashirs.

The Evidence furnished by **PW-10 DSP Ali Hassan Shaikh** (Final I.O of this case) further transpires that on 29.04.2018, SIP Saheb Khan (I.O of Crime No. 236/2018 U/s 363/511 PPC of P.S Shah Latif) took the accused Amjad @ Zakir from Lockup of P.S to Jinnah Hospital, Karachi for his **Potency Test**. Accordingly, vide MLC No. **J-4211/2018**, Potency Test of the accused Amjad @ Zakir in this FIR was conducted by concerned MLO, JPMC, Karachi. The copy of the subject MLC was also obtained by Him from SIP Saheb Khan. He had seen such MLC at Ex. 15/B and verified it to be same and correct.

Viewing to the above discussed Facts and Circumstances; Attested Photostat Copies of the Documents were relied upon and produced in this case by the Prosecution instead of Original Documents with Leave of the Court for the sake of convenience and swift disposal of instant case and more Importantly, such Facts were also brought into the knowledge of learned defence counsel before producing such Attested Photostat Copies of the Documents whereby, No any Objection was raised by the learned defence counsel at that time, during Trial.





In the above context, I have fortified my views from a Case Law reported in **PLD 2016 13 and 8, 2005 SCMR 152** wherein, it was held as under:-

“Secondary Evidence can be produced when its original is not available. Secondary Evidence is only permissible with Leave of the Court.”

In yet another Case Law reported in **2004 SCMR 1777** it was held that:-

“Document exhibited in Evidence without Objection, admissibility cannot be denied.”

Photocopy of National Identity Card brought without Objection presumed to be true.

[Reliance in this regard is placed upon **1991 CLC 1774** and **1988 SCMR 753**]

Besides, I have also sought guidance from yet another Case Law reported in **PLD 2002 Peshawar I** wherein, it was held that:-

“No secondary evidence could be produced unless allowed by the Court--Where entry on the stamp paper was non-existent in the register of the stamp vendor produced in the Trial Court and it was not proved that the Court had allowed to produce the secondary evidence.”

But, in this case, from the Evidence furnished by Final I.O of this case namely PW-10 DSP Ali Hassan Shaikh, it has come on record that Original Copies of the relevant Documents are lying in R&Ps of Case No. 236/2018 of P.S Shah Latif Town, Karachi (which is not Pending before this Court).



Another Noteworthy aspect of the present case is that during the course of investigation, on **04.02.2018**, **PW-05 SIP Muhammad Tayyab** (first I.O of this case) had conducted **Photo-Session** of the **Minor victim Maria** comprising of **Two Images** at her House, which he produced at **Ex. 10/G** and verified Them to be same, correct and bearing his signature. On having glanced upon such Photos of **Minor Victim Maria (Ex. 10/G)** it could be clearly seen that **Minor Victim Maria was in a state of Shock, Panic/Terror and**

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whoever, will see such Pictures, he would become perturbed {Uncomfortable}.

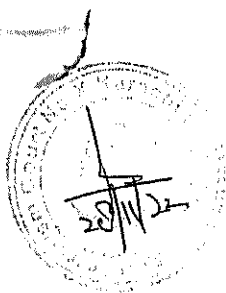
In this relevancy, it is worth mentioning here that as per Article 164 of **The Qanoon-e-Shahadat Order, 1984** Photographs are admissible in Evidence due to modern Techniques/Devices, which cannot be discarded. Hence, the Photographs collected during Investigation and brought on record during Evidence have great Importance. In this regard, I would also like to refer to one of the Chapter of the **Book Titled: Scientific Criminal Investigation** authored by **BR Sharma** Revised by **Mohammad Mumtaz Faridi** wherein, it is emphasized that:-

“Visuals are more effective than oral descriptions. It is said that one Picture may describe a scene better than a thousand words.”

Besides, it is further quoted that:

“It is rather rare for the Judges, the Jury and the Lawyers to visit the scene of occurrence. Proper photographs bring the scene in the Court. They depict the scene far better than the verbal or written description of the scene.”

Apart from the above, during Arguments, learned defence counsel also raised an objection that I.T.P. of the present accused was held in this case with **14 days delay** creating doubt since, he was arrested in this case on **10.04.2018**, whereas, the I.T.P. of the accused through **Minor Victim** was conducted by the learned Judicial Magistrate on **24.04.2018**. Furthermore, learned defence counsel was also of the view that I.T.P. of the accused was not conducted in accordance with Law.



In this respect, I have sought guidance from a Case Law reported in **PLD 2001 Supreme Court 398**, wherein, it was held that:-

“--Art. 22--Identification parade--Delay, in holding of--More long interval in holding identification test/parade or identification of accused would not by itself be sufficient to discard the testimony when the testimony as regards identification itself was also not challenged by the accused in cross-examination.”

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Hence, in view of the above referred Dictum laid down by the Hon'ble Apex Court, the Objections raised by the learned defence counsel as regards to holding of I.T.P. of the present accused have become devoid of any force.

It is also Noteworthy to discuss/highlight here that the present accused was arrested on 07.04.2018 and his Blood Sample for the purpose of DNA Test was taken on 12.04.2018, by MLO of JPMC, Karachi and when DNA Test was concluded as Positive, then the present accused being an Actual Culprit of this case was produced by the I.O before the learned Judicial Magistrate for his I.T.P. through Minor Victim Maria. Hence, such Delay in holding the I.T.P. of the present accused is Neither intentional Nor deliberate and as such, Not Fatal for the case of the Prosecution.

As far as Defence Version is concerned, while recording his Statement U/s 342 Cr.P.C, in all, **14 Detailed Questions** were put to the present accused pertaining to the entire Evidence led by the Prosecution, in Reply to which, he simply **denied** those Questions by regarding them as to be **Incorrect** in an Evasive Manner (which are Reflected in the contents of Statement of Accused U/s 342 Cr.P.C.). More importantly, in Reply to Last **Question No. 14** as to whether he wanted to say anything else, the present accused stated that he was Arrested by **Ali Hassan Shaikh** (I.O of this case) on **07.04.2018**, at **01:00 PM** from the **Road near Bhains Colony, Karachi** while he was going for sending an **Amount of Rs. 40,000/-** to his **Brother in Punjab**. As per the version of the present accused, at that relevant time, he had his **ATM Card, CNIC, Cheque Book of MCB and Other Articles**, which were taken by the Police. It was further claim of the present accused that after interrogating him, Police (I.O DSP Ali Hassan Shaikh) had taken him in custody and he was locked up at P.S Shah Latif, Karachi and thereafter, he was fixed in this case. He claimed to be an Innocent and prayed for Justice.

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Regarding the above Defence Version, it is pertinent to mention here that PW-10 DSP Ali Hassan Shaikh (Final I.O of this case) fully denied the suggestion put by the learned defence counsel during Cross-Examination that at the time of arrest of the accused **Amjad Ali @ Zakir @ Sajid** in this case, he was carrying **one ATM Card with Cash of Rs. 40,000/-** including **Cheque Book**. Dowry

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Articles of his Sister with Mobile Phone and a CNIC in the name of accused Amjad Ali @ Zakir @ Sajid and likewise, he denied the suggestion that such Articles are still lying at P.S Shah Latif, Karachi. Furthermore, on perusing the contents of Memo of Re-Arrest of the present accused in this case (Ex. 11/C), it transpires that Nothing was recovered from the possession of the present accused at the time of his Arrest and Personal Search. This Contradicts and Negates the version of the present accused regarding possession of above referred Articles at the time of his Arrest.

With reference to the above context, it is also Noteworthy to mention here that present accused in his Statement U/s 342 Cr.P.C. made verbal Assertions regarding his False Implication in this case by I.O but, he failed to produce any Solid/Tangible Evidence in the shape of ocular Account or Documentary Proof. The Record is found totally silent as to whether any Application or C.P was filed by the Family of the present accused regarding his alleged Arrest by Police or his false implication in this case. It is surprising to Note here that the present accused in order to prove his Innocence, Neither examined him on Oath Nor even bothered to produce a Single Witness in his Defence, who could give corroboration to the version furnished by the present accused.

It is also pertinent to mention here that no any Verifiable Plea of Alibi has been suggested or brought on record by the Defence Side, which could reflect that present accused was not available at the Crime Scene at the relevant Date and Time as reflected in the instant FIR. Hence, mere verbal Assertions made by the present accused regarding his so called Arrest and False Implication in this case by the Police is not sufficient enough to discard the Case of Prosecution which is being fully corroborated through Strong and Tangible Evidence in the Shape of Victim's Testimony, Medical Evidence, Positive DNA Report and other strong Circumstantial Evidence.

Now, it is substantial to discuss and highlight here the conduct and behavior of the Present Accused, which is crystal clearly reflected from the contents of **Interrogation Report** available on the face of Record, which reveals as under:-

1. **The Present accused committed First Rape with a Minor**
aged 05/07 Years in the year 2007 in Puniab Province

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- by alluring her and in this regard, he had also gone to Jail after registration of case.
2. In the year 2013, Second Rape was committed by the present accused with an Innocent Minor Girl in the Area of Mubina Town, Karachi for which, he again went to Jail.
 3. In the year 2015, on Sunday in morning time, the present accused committed Third Rape with another Innocent Minor Girl.
 4. In the year 2016 it was Sunday, when the present accused committed Fourth Rape with 07/08 years old Minor Girl after alluring her in the Area of Shah Latif Town, Karachi.
 5. In the year 2017 in the Month of June/July it was Friday, when the present accused committed Fifth Rape with another Innocent Minor Girl aged 06/07 years in the Area of Nipa Chowrangi, Karachi.
 6. Furthermore, in the Month of December, 2017 the present accused committed Sixth Rape with another Minor Girl aged 06/07 years within the Area of Sherpao Colony, Lala Abad Road after alluring her.
 7. Then, again in the Month of December, 2017 the present accused committed Seventh Rape with another Minor Girl aged 07/08 years within the Area of Zafar Town, Karachi after alluring her.
 8. Whereas, in the month of February, 2018 on Friday, at Bhens Colony, Factory Zone, Karachi present accused committed Eighth Rape with another Minor Girl.

Viewing to the above highlighted Facts and Figures, it is apparent that in order to commit such heinous acts with Innocent Minor Girls, present Accused used to allure them on the pretext of offering Things to his Victims for which, the present accused mostly chooses **Friday/Sunday** and after taking Minor Innocent Girls to Isolate/Deserted Places particularly Bushy Areas, he forcibly commits Zina with Innocent Minor Girls, after which, he runs away and conceals himself.

Moreover, as per the present accused's own Confession/Admission before **Final I.O/DSP Ali Hassan Shaikh**, on **07th April, 2018**, he got apprehended by Mohallah People red handed, while he had abducted another minor Girl and was taking her away for committing Zina on the bus and car of Victim and at that time

present accused was also beaten up by the Mohallah People to which, he became injured at the time of getting caught and he was referred to Jinnah Hospital, Karachi and in this regard, the Medical Evidence is on the Record.

Without any Doubt, it is crystal clear that present accused is a Habitual Offender or to be more specific, he is a **PREDATOR** (**Shikari**) who had been alluring Minor Innocent Girls (Victims) and had been forcibly committing Rape with them since, the year **2007** in **Sindh** and **Punjab** Provinces (which has been established through DNA Test Result/Analysis) and to my utter Surprise, it is quite Shocking that even after committing Several Rapes with Minor Girls, he had been moving Freely without any Fear of getting Caught/Punished and still, he had the Audacity to commit more of such Heinous Crimes. This again raises a Big Question on the Efficiency and Competence of Police Force/Law Enforcement Agencies (which have already been highlighted in the Preceding Paras). Nevertheless, viewing to the conduct and behavior of the present accused, he does not deserve any kind of Clemency since, he is a habitual offender and a Precarious PREDATOR and in this regard, an Accused cannot claim benefits of any exception in his defence through reticent imputations alone; he is required to positively discharge onus, cast upon him in terms of **Article 121 of The Qanoon-e-Shahadat Order, 1984**. Reliance in this regard is placed upon the cases of **Muhammad Raheel alias Shafique v. The State (PLD 2015 SC 145)** as well as **Malik Muhammad Mumtaz Qadri v. The State (PLD 2016 SC 17)** wherein Parameters have been laid down for an accused claiming benefit/protection of any of the exceptions available under the law; however, it has nowhere been accused's case Nor, he ever opted to produce any Evidence either in disproof of the Charge or to Prosecute the plea of exception; totality of circumstances do not admit any such hypothesis as well.

Moreso, Conviction could well be recorded on Sole Evidence of the Victim in such like cases because normally the guilty mind would never prefer a place visible to naked eye or where the people could come on a little commotion particularly when the victim, after such offence, was intended to move freely.

It is worthwhile to mention here that on the very day of incident, the **Minor Victim Maria** was taken/shifted to Hospital for



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narrated the entire Incident to her Mother. Moreover, at the time of I.T.P. of the present accused, Victim while Positively Identifying the present accused had narrated the Facts in the detailed manner and again for the Second time, She corroborated her own version during recording her Evidence before this Court, which shows the sanctity of the Evidence regarding the offence of Rape. Besides, all the Prosecution Witnesses have fully supported the Prosecution Version in totality without any material contradiction or exaggeration in their Evidences and there is no any discrepancy found on the part of the Prosecution.

Admittedly, in the present case, there is no dispute regarding date, time, place of incident, Role and Conduct of present accused against the victim, therefore, it has been established that Prosecution has discharged its burden successfully. Circumstances have prima facie established that all the Witnesses are natural, confidence inspiring and sufficient to connect the present accused with commission of instant offence as reported in the FIR by the Complainant.

Unfortunately, we are living in an age where the sexual lust of Persons like Present Accused has gone to an extent which has made even small and young babies vulnerable to such Sexual Assaults. Though, the Courts are not the reformists but, still heavy duty lies on the Courts to award exemplary punishments in proved cases of sexual violence to make it a bad bargain for the likeminded philanderers. Therefore, in the given circumstances, I have dealt with the matter in hand with utmost care and caution.

Having looked into the Evidence led by the Prosecution from all the Dimensions, I am of the considered view that the Prosecution has been able to prove the charge against the present accused through cogent, reliable and confidence inspiring evidence. The Testimony of **Eye Witness/Minor Victim Maria** is quite natural and straightforward who raised her Accusing Finger towards none else but, the present accused being a Perpetrator of the instant offence. It is Tradition of our society to conceal such like offences, as it is difficult to approach the Police Station while taking the minor girl in the lap smeared with blood with the allegation of rape committed by somebody to take the stigma forever not only for the family but, also damaging the future of a minor girl. Nevertheless, the Ocular Account furnished by **Witness Maria** stands corroborated with the **Medical**



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Evidence produced by PW-01 Dr. Aiman Khurshed (WMLO), Positive DNA Test Report of Victim's Profile and Present Accused's Profile as produced by PW-02 Muhammad Hussain Soomro {Forensic DNA Analyst, Focal Person of DNA Laboratory, LUMHS, Jamshoro}, Positive Chemical Examiner's Report as produced by PW-05 SIP Muhammad Tayyab (First I.O of this case) and Positive Male Potency Test Report of the present accused as produced by PW-08 Dr. Nazeer Ahmed Malik, the then SMLO, JPMC, Karachi.

The present accused Amjad Ali @ Zakir @ Sajid crossed the limits ascribed by Allah Almighty in a brutal manner and does not deserve any sympathy of this Court. While going through the Evidence from the four-corners, I have no legitimate exception to differ with the version brought on record by the Prosecution against the accused Amjad Ali @ Zakir @ Sajid. Accordingly, I reply the above determined Point in Affirmative/Proved.

POINT No. 2:-

The Epitome of what has been discussed above is that Prosecution has successfully **Proved** its case against the Present Accused without any shadow of doubt. Accordingly, I **Convict** the accused Amjad Ali @ Zakir @ Sajid S/o Khairat Ali U/s 376 (3) PPC and he is hereby, Sentenced to **DEATH** and He shall be **HANGED BY NECK TILL HIS DEATH**, under Intimation to this Court. However, such Death Penalty is subject to Confirmation by the Hon'ble High Court of Sindh, Karachi as provided U/s 376 Cr.P.C.

The Accused produced in Custody is remanded back to Jail for Execution of the above Sentence Awarded to the Accused in the Manner and Terms highlighted supra.

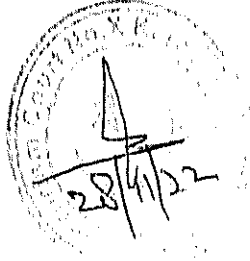
The copy of this Judgment shall be supplied to the present accused free of cost with acknowledgment Receipt. Let the R and Ps of this case be transmitted to the **Honorable High Court of Sindh** in terms of Section 25 (2) of **Anti-Terrorism Act, 1997** as well as for the **Confirmation of Death Sentence Awarded** to the Present Accused as required U/s 374 Cr.P.C and Death Sentence shall not be Executed unless, it is confirmed by the Hon'ble High Court of Sindh or otherwise.

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Pronounced in open Court.

Given under my hand and seal of the Court, this the 28th day of **November, 2022**.



-sd-
28-11-2022

(AMINA NAZEER ANSARI)
Judge,
Anti-Terrorism Court No. X,
Karachi.

PROPERTY ORDER:-

The Case Property of this case as per instant Charge-Sheet, which was produced in Court during Evidence, marked as **Article P/1** and **P/2** is hereby, ordered to be disposed of as warranted by settled Rules and Procedures, after expiry of the Appeal Period under an Intimation to this Court.



-sd-
28-11-2022

(AMINA NAZEER ANSARI)
Judge,
Anti-Terrorism Court No. X,
Karachi.