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IN THE FEDERAL SHARIAT COURT

(Appellate Jurisdiction)

PRESENT:

HON:MR.JUSTICE DR.FIDA MUHAMMAD KHAN
HON:MR.JUSTICE ABDUL WAHEED SIDDIQUI

Criminal Appeal No.52/P of 1996.

1. Gul Sambar Khan s/o Appellants
Zar Mast Khan,

2. Muhammad Zahir s/o
Umri alias Bap Zari,
both resident of Sehn Ayun,
District Chitral.

Versus

1. Damad Khan s/o Respondents
Mohabat Khan, r/o
Sehn Ayun, Chitral.

2. The State.

Counsel for the Mr.Tariq Parvez, Advocate.
Appellants

Counsel for the State Malik Akhtar Naveed, Advocate

FIR No. dated and 46 dated 29-12-1994
Police Station P.S. Ayun, Chitral

Date of decision 23-10-1996
of trial Court

Date of Institution 10-11-1996

Date of hearing 29-01-1997

Date of decision 7-4-1997.

Waheed

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JUDGMENT:ABDUL WAHEED SIDDIQUI, J:- Gul Sambar Khan appellant

No.1 and Muhammad Zahir, appellant No.2, have assailed the judgment dated 23.10.1996 by Sessions Judge/ Zilla Qazi, Chitral convicting appellant No.1 under section 458/34 PPC and sentencing him on that account to 7 years R.I. with a fine of Rs.5000/- in default of which a further R.I. for one year, also sentencing him under Article 11 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 to life imprisonment with 30 stripes and a fine of Rs.10,000/- in default of which to undergo R.I. for 2 years and also convicting appellant No.2 under Article 16 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 and sentencing him to undergo R.I. for 4 years with 15 stripes and a fine of Rs.5000/- in default of which he has to undergo a further R.I. for 6 months. Both the appellants have been given benefit under section 382 (B) Cr.P.C. Two other co-accused namely Abdul Hakeem and Abdul Aziz have also been convicted u/s.458/34 PPC and under article 10(2) offence of Zina(Enforcement of Hudood) Ordinance, 1979 but they have not preferred appeal.

2. Story of prosecution, in brief, is that on 29.12.1994 at 03.30 hours, first informer/complainant Damad Khan (PW-10) lodged FIR at police station Ayun District Chitral stating therein that while he was sleeping in his house that very night alongwith his other family members namely his wife, daughter Mst. Buzurg Bibi, daughter-in-law, and other children and the lantern was burning,

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he got awakened on the knocking of the door and found appellant No.1 having entered the house after opening the door. This appellant was armed with a pistol and threatened that in case the complainant did not hand over his daughter Buzrig Bibi to him, he shall be finished. While the complainant tried to catch hold of appellant No.1, a person with covered face entered the house, gave him beating with a lathi and he fell down. Other inmates of the house awakened, but appellant No.1, alongwith accomplices took out Buzrig Bibi forcibly, and closed the door from outside with a chain. The complainant climbed out of the house from the window and informed his son Noor Ahmed who was in his shop in the Bazar of Kuri Ayun. As alleged in FIR, abducted lady Buzrig Bibi was not yet pubert, was betrothed with Saeedullah (PW-26). Before reaching police station, the complainant had also informed the incident to the members of the house of Saeedullah from where Zadullah (PW-6) and Muhammad Amir went in search of the culprits. That very night they caught hold of appellant No.1, brought him to the Police Station where he was arrested vide Exh.21.

Other co-accused who came to be known later on, were appellant No.2, Barat Khan, Ajab Khan, Abdul Hakeem, Abdul Aziz, Muhammad Ali and Aman Wali who all were charged together through the same charge sheet but under different offences as per their roles

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in the chain of offences committed in the course of the same transaction.

The abductee Buzarig Bibi (PW-2) was recovered from the joint house of convicts Abdul Hakeem and Abdul Aziz in the village of Jingeret and these convicts have not preferred any appeal so far, the statement of abductee was recorded under section 164 Cr.P.C. by Ilaqa Qazi/ Magistrate First Class on 1-1-1995 vide Ex.PW-24/17.

In her statement she alleged that after abduction she was subjected to rape by four persons, but not by the appellants.

3. As the prosecution story proceeds further, six accused persons were arrested within few days whereas two are still absconding and they have been declared as such. Out of the arrested accused both the appellants as well as convicted accused Abdul Hakeem, Abdul Aziz and acquitted accused Muhammad Ali gave their confessional statements under section 364 Cr.P.C. before Ilaqa^{Qazi}/Magistrate First Class in which every accused highlighted his specific role in the transaction of the chain of offences inter-connected and inter-mingled. The story which was emerging from these confessional statements coupled with circumstances of the case appeared to be an elucidation of the story summarily told by the victim girl in her statement under section 164 Cr.P.C. (Exh.PW-24/17) read with FIR (Exh.PA).

4. Appellant No.1, in his detailed statement under section 364 Cr.P.C. Exh.PW 24/1, has alleged that he used to pay money to the

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daughter -in-law of the complainant Damad Khan (PW-10) in lieu of a promise that Buzurig Bibi shall be betrothed with him. However it did not accomplish and she was betrothed with another person Saeedullah (PW-26) by name. On this although he remained silent, yet every now and then he used to be teased, abused, harassed and sometimes beaten by Saeedullah (PW-26), his brother Zadullah (PW-6) and their relatives and friends and even women. He always complained to his brothers and relatives, but they also cursed him for no fault on his part. He was dishonoured to the extent that vexatious and frivolous applications were moved against him at police Station and he was called and threatened there. He made such complaints with the parents and brother of Buzurig Bibi who consoled him and informed him that it was Saeedullah and his men who were doing it and this way they were bringing bad name to the family. Due to this mischief , they had made him to understand that Buzurig Bibi shall not be given in marriage to Saeedullah. One day daughter-in-law of complainant advised him to meet her cousin Barat Khan (absconding accused) at village Biwri and he is in a position to arrange his marriage with Buzurig Bibi . So he met Barat Khan who asked for arrangement of money and a Jeep. Consequently he arranged Rs.20,000/- as loan form Agricultrual Bank and also arranged a jeep of driver Mohammad Sarwar (PW-18) and was accompanied by appellant No.2. They remained travelling between

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the village of Ayun, Biwri and Jingeret in search of Barat whom they could finally find near Biwri. Then Barat Khan took three pushto speaking persons from Gengeret as accomplices out of whom two were armed with Kilashinkoves. He took his pistol with him. Then leaving jeep near High school Ayun, they abducted the girl but appellant No.2 had ran away earlier and was not one of the abductors. Due to noise and quarrel at the time of abduction, the driver of the jeep ran away as he was not taken into confidence and was kept in dark regarding the commission of offence. Barat and three other Pushto speaking accomplices took away the abductee girl forcibly through the katcha path as they were afraid they might be caught on the pacca road. Barat told appellant No.1 to bring jeep near Sayyadabad hotel where they will reach alongwith abductee by katcha secretive paths. When he brought the jeep near the appointed place after some time, none of his accomplices was there. On the contrary he was caught hold by Zadullah (PW-6) and another person who were searching him and was beaten severely. His pistol and Rs.15000/- were snatched from him and he was brought to Police Station Ayun where already an FIR was lodged against him. He was arrested but was not aware as to where had gone Buzurg Bibi, Barat and three other accomplices. The story of the prosecution has proceeded further to the extent that absconding accused Barat and Ajab and convicts Abdul Aziz and Abdul Hakeem committed rape with

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the unfortunate victim girl on their way towards Jingeret, every one of them twice, during the whole night and coming day of abduction.

After reaching village Gingeret in the coming fall of night, they again molested her in the joint house of two co-accused brutal brothers namely convicts Abdul Aziz and Abdul Hakeem till she was recovered from the said house by the Police.

5. We have heard both the counsel for appellants and for State in details. The contentions of the counsel for appellants are that the impugned judgment is against law and facts and there is no tangible evidence as the occurrence took place at mid-night and the identification of appellant No.1 was not possible on lantern, and that it was a night of such a chilling Snow-fall that the entire story of a bare-footed naked-headed victim nubile virgin of 13 years appears to be totally unnatural who was made to walk for about 5 hours during the night on snow-filled katcha zig-zig paths, pigdandis, paidal-poons and valleys of the high rising snow covered mountains covering 35 Kilometres and was molested by four barbarians at different intervals totalling at least 12 times, yet she was neither falling unconscious nor getting ill; that appellant Mohammad Zahir has neither been assigned any specific role nor mens rea appears on his part; that on the same evidence some of the similarly placed accused have been acquitted; that the confessions are not only delayed but are retracted as well; that many versions of the incident are



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evident from the record; that appellant Gul Sambar is a person whose case falls within the parameters of mitigating circumstances; that the conviction of appellant/^{No.1}under article 11-Offence of Zina (Enforcement of Hudood) Ordinance, 1979 is not called for as the said offence is not constituted; that the positive report of the chemical examiner is due to the possibility of the cohibition by the would-be spouse of Buzurg Bibi prior to the examination in view of certain customs and folk-ways of the area; that there is conflict between the depositions of abductee Mst. Buzurg Bibi (PW-2) and complainant Damad Khan (PW-10); that there are contradictions among the prosecution witnesses; that no identification parade was held; that the animus between the parties is proved from the record. Appellant's counsel has relied upon 1988 SCMR 601, PLD 1985 FSC 404, PLD 1993 FSC 12, PLD 1995 FSC 20, PLD 1995 FSC 34, PLD 1988 FSC 3. Learned counsel for State has supported the impugned judgment and has also contended that there appears to be an active role of appellant Muhammad Zahir in the chain of offences to the extent to which he has been correctly held responsible by the trial Court and his conviction does not call for any intereference.

6. So far as the contention of the counsel for appellant regarding impossibility of the identification of appellant No.1 (Gul Sambar) by Damad Khan (PW-10), the complainant, on the light of lantern is

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concerned, it has its origin on the following piece of FIR (Ex.PA):

"To night myself, my wife , daughter-in-law, other infant children and my daughter Mst. Buzurg Bibi were sleeping in our residential house and the lantern was burning. On the knocking of the door I awoke and found Gul Sambar Khan s/o Zarmast Khan resident of Sahan Ayun armed with pistol entering the house....."

The complainant has remained firm on the point of identification of appellant No.1 in the light of lantern during cross upon him. Mst. Zarfia (PW-1) is also firm about the immediate identification of Gul Sambar (Appellant No.1) in her deposition and to that effect is the examination-in-Chief of Mst. Buzurg Bibi (PW-2) in which she has mentioned the existence of a burning lantern and entry of appellant No.1 as well as two muffled face persons. It is the cross by the counsel of the appellants in which she has deposed, "All the offenders who entered the house were muffled and at that time their identification was not possible." But she has repeated that she identified the offenders in the light of lantern during cross to the counsel for convicts Abdul Hakeem and Abdul Aziz and for acquitted accused Muhammad Ali.

In view of this position of the evidence, no rule of prudence will confirm the opinion that Appellant No.1, who was already known to the family and was not muffled, was not identified in a dark night in the light of a lantern. This contention has no force and is repelled accordingly.

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7. So far as the contention regarding the story of prosecution appearing to be unnatural is concerned, it is resolved by the following piece of deposition of the unfortunate victim Mst. Buzung Bibi (PW-2):

" These culpirts took me out of my house while dragging me. After reaching near Govt:High School Ayun, Gul Sambar went away to fetch a jeep. Barat Khan, Ajab Khan, Abdul Aziz, Abdul Hakeem, Mohammad Ali etc caughthold of my hand and proceeded towards the main Road via Ispaghliht. After reaching main road, they left the road and started on katcha path. Then they reached the bridge of Gijret and after crossing it they again proceeded on katcha path. It was the last quarter of the night that while proceeding forward, first of all Barat committed rape with me, then Ajab molested me, then Abdul Aziz and then Abdul Hakeem committed the same offence In the morning time they made me to reach a house of one Gujar and throughout the day they made me to remain in that house. Then in the evening while proceeding during night all the four farmers again raped me turn by turn and in that night they made me to reach Gijret. There also they took me to a room where they molested me and then they left me in some other room with an elderly woman. At morning they again closed the room. Barat and Ajab went away some where, but Abdul Aziz and Abdul Hakeem

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remained committing rape with me till the police came and liberated me."

It stands proved from the evidence that it was a night of snow-fall and naturally a very cold and dark night. It is also a fact that at that time the victim was 13 to 14 years of age according to X-Ray Report as deposed by Dr.Saleema Hassan (PW-19), but simultaneously the same lady doctor has stated that the girl was healthy on the general standards of the area and that normally the girls of Chitral are made to marry at that very age. The entire chain of offences commenced about 3:30 A.M. in the second half of the night falling on 29-12-1994 and terminated on 30-12-1994 when the abductee victim was recovered by Hawaldar Mst. Khyabanunisa (PW-14) from the jointly owned house of two brothers, Abdul Aziz and Abdul Hakeem, the convicts. According to evidence entire day of 29th December 1994 from early morning upto Asar time was spent in a house of Gujar to which effect Mst.Seyyada Bibi (PW-16) has deposed, "From today some what less than a year/^{ago}one early morning four persons including a girl came to my house and requested for tea When these guests remained sitting after having taken tea, I asked them to go, but they pretendend about the ailment of the lady This way they remained upto Asr without paying heed to my demand." This part of the deposition of PW-16 is suggestive of the fact that the victim had started

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ailing due to the brutality to which she was subjected to from late night to early morning. Upto Asr she was given rest in the house of a Gujar and then on way towards Gingeret she was again molested till they reached their destination. Now the girl was young, healthy and accustomed to snow-fall and very cold nights. However due to molestation, she appears to have felt indisposed and that is why the offenders were forced to spend whole day in the house of a Gujar. At the outset many places have been named in the evidence and appear to be unnatural to have been trodden on foot during five to six hours of the late snow-fall cold night of 29th December where sun rises around 9.A.M. in late December and then few hours of trodding on the same date after Asr times. But all these places are in fact nearer in distance. From Ayun Sahan, Ispaghilisht is approximately 2 KMs. From Ispaghilisht to the bridge of Gihret the distance is about 1½ KMs and then comes Gingeret Gol which is 25 KMs from Gihret bridge approximately. Consequently it turns out to be a chain of offences having taken place in a natural manner although creating hardship and tyranny for the victim girl who was attuned with the climatic conditions of the area. This contention is therefore rejected.

8. It has been argued that there is conflict between the deposition of Buzrig Bibi (PW-2), FIR and deposition of Damad Khan (PW-10) on the point that PW-2 is admitting that there is no window or Roshandan in her house but her father Damad Khan has deposed that since the house was chained from outside, he climbed outside from a window existing in his house.

FIR is also indicating the existence of a window from which Damad Khan climbed outside and opened the door of the house. Defence has demanded benefit of doubt on this account. We have considered this argument in view of SITE plan (27/2) and the architectural design of the house plan. Mst.Buzrig Bibi (PW-2) has deposed during cross by the counsel of the appellants that the house in which they were sleeping was of Chitral type. SITE plan (27/2) is indicating at point No.5 a window at a height of 8 to 9 feet and its breadth is shown to be 3 to 4 feet. The reason of keeping such a height of window is to use it as an entry and exit for guarding the cattle kept on the roof of the house.

The architectural designs of Chitrali type houses are of many categories. The one which has been referred to in this case is a common feature of such houses which have some hill or hillock at the background. In such houses cattle are kept on the middle roof (اسپراڙگ) which is adjacent with the hill and are looked after from inside the house through a small gate in the middle roof which gate is known as " Doohat" (ڊوھت) in the Khuwar (Chitrali) language and , of necessity, is kept at a height of 7' to 12'. The cattle are covered by the upper roof (اِستان).

This Doohat is used in emergencies for climbing outside the house as well. It has no equivalent word in Urdu language. Some of such houses do maintain window or roshandan or both and are known as (چیراخدوری) and (کمار) respectively in the Khuwar. These are kept from one to four feet lower than the middle roof (اسپراڙگ). Exact translation of (چیراخدوری) in Urdu is کھرکی . Now it is the matter of fact that the language of the PWs

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under reference is Chitralli (Khuwar) and they were deposing in the said language, but the trial Court was recording the same in Urdu. Damad Khan (PW-6) is referring to Doohat which has been translated in Urdu as (کھڑکی) only to depict some nearer word as there is no word in Urdu which can exactly depict the real meaning of Doohat. Buzrig Bibi (PW-2) seems to have been asked a question during cross about the existence of (جیڑا خدوری) or (کُماڑ) in the house, which has been correctly denied and has been exactly translated as (کھڑکی) and (روشن دان) in the Urdu record of the case. Consequently we have come to the conclusion that there is no contradiction between the two depositions vis-a-vis FIR. This contention is, therefore, repelled. We are not left with any other alternative but to take a judicial notice of the fact that whenever depositions/statements are made in vernaculars the same are immediately translated by the courts either in English or in Urdu and recorded as such. This creates possibilities of wrong and erroneous translations. In this age of electronics, it is possible to record vernacular utterings in cassettes and make it exhibited record of the Courts in the interest of safer dispensation of justice.

9. Appellant's counsel has vehemently argued that the judicial confessions of appellants and other co-accused u/s 364 Cr.P.C. have no value as the same stand retracted and then the confession of one accused cannot be used against other accused. Reliance has been placed on PLD 1995 FSC 20. The proposition of law which has been enunciated in the said judgment is that confession of co-accused cannot be used as a substantive piece of evidence to make it the basis of conviction of other accused, but can be used as a corroborative piece of evidence if other substantive evidence is available on record (placitum D). In the impugned judgment the retracted judicial confessions have not been used in isolation, but the same have been cautiously considered in the presence of substantial ocular

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and circumstantial evidence. This argument of defence is, therefore, misconcieved.

10. The positive report of Chemical Examiner has been challenged on the ground that before the medical examinaiton the prosecutrix might have co^hibited with her would-be spouse for which licence is provided by certain mores, folkways and customs of the area. This challenge has its source in the following piece of deposition of Inayatullah (PW-27), the Investigation Officer of this case.

" It is a folk-way of Chitral that Rukhsati can take place years after the betrothel and in between the children are also born to the spouses."

It has been argued that this opinion of the Investigation Officer is to be given weight in view of the rulings of this Court cited as PLD 1995 FSC 34. Reliance has also been placed on placentium F of PLD 1988 FSC 3 which reads. " Once it is found that the prosecutrix had indulged in sexual intercourse previously also her statement loses weight and her statement has to be looked with caution and unless corroborated in material particulars cannot be made the basis of conviction."

There is no doubt that certain customs and folkways in the valley of Chitral are unique. Quoting from Jamal Hyder Siddiqui's Urdu book (وادی چترال) PPA Publication Islamabad 1996 page 73:

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" وادی چترال میں شادی بیاہ کی رسمیں بھی منفرد نوعیت
کی ہیں اور ان میں آج بھی وسطی ایشیاء کی قدیم تہذیب
کے نمونے نظر آتے ہیں "

The Investigation Officer might have correctly quoted one of the customs generally followed, but is simultaneously not obligatory and then it is not applicable in the circumstances of the present case. Mst. Buzrig Bibi (PW-2), the victim girl, was recovered by lady constable Mst. Khayabanunnisa (PW-4) on 30-12-1994. She has deposed, "After recovery of the abductee she was brought alongwith her brother, who was with us at the time of house search for recovery, under my escort and led by SHO, to Chitral where she was got examined by the doctor. Then on the application of abductee's father and brother she was handed over to her father." Lady Doctor Dr. Saleema Hasan (PW-19) has deposed on this point as under. " On 30-12-1994, S.H.O. police station Ayun brought abductee Mst. Buzrig Bibi for examination with the application as to whether the abductee was subjected to Zina or not. On this I examined the abductee exactly at 5:30 hours. Pelvis examination shows that she has been subjected to sexual intercourse. Vaginal swabs taken and sent for analysis." On point of recovery and immediate examination of the abductee, Inayatullah (PW-27), the Investigation Officer, is also intact that the recovery was effected on 30-12-1994 from Gigeret Gol before witnesses Rasheed Ahmed and Noor Ahmed and the abductee

was got examined medically from Dr.Miss Salima Hasan immediately on the same date. No suggestion has been made to all these substantial witnesses regarding her contact and cohibition with her would-be husband Saeedullah (PW-26) between her recovery and medical examination. The contention is repelled.

11. It has been contended vehemently that the offence under article 11 of the Offence of Zina (Enforcement of Hudood) Ordinance is not constituted against appellant Gul Sambar in view of the fact that component part of abduction in the said article is not found. Reliance has been placed on PLD 1993 FSC-12, 1988 SCMR 601 and PLD 1985 FSC 404. It has been argued that it is evident from the deposition of Buzrig Bibi (PW-2) that appellant Gul Sambar took her from her house near Government High School, Ayun forcibly and then went away to bring a jeep. After that his role terminates. Consequently he had fetched the victim for about a few steps or may be a few steps further or a lit bit less than an acre or so. Hence abduction is not constituted in view of the cited law. Now the cited law is that as per 1988 SCMR 601 the distance between the starting and terminating points of dragging or fetching the victim being only one acre it was held that the abduction was not established. It was held per PLD 1993 FSC 12 that dragging for few steps would not tantamount/abduction. It was held in PLD 1985 FSC 404 that taking victim from street to close room did not amount to kidnapping or abduction. High School Ayun may be

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a little bit more than an acre from the house of the abductee, but she has not stated that she was taken up to the school. Nearer to school may be less than an acre. Although retracted, yet any piece of judicial confession can be used in favour of the accused in case it is corroborated by other facts and circumstances of the case. In the present case, the victim girl herself is absolving appellant Gul Sambar from aggravating circumstances in the following words of her deposition, "It is correct that accused Gul Sambar has not molested me". Appellant Gul sambar in his judicial confession has stated, "Myself and another person dragged the girl Buzrig Bibi near the road, but before reaching the road, Barat Khan took the girl on another path which is a pugdandi. On my asking he said that since noise has been made and on going towards the road up to jeep, Police shall arrest us. "Convict Abdul Hakeem has confessed under section 364 Cr.P.C., "Gul Sambar went after the jeep and disappeared. Barat Khan caught hold of the girl and we proceeded, crossed the bridge, and came on the main road." Convict Abdul Aziz has also repeated the same fact in his judicial, although retracted, confession. All this evidence has led us to the conclusion that there is a doubt that appellant Gul Sambar had dragged or fetched the prosecutrix for more than ^{one} acre. While the accomplices of appellant No.1 were nearer to the house of complainant on a pigdandi, his role terminated. Hence he is given benefit of doubt, and is absolved from the offence committed under article 11 of the Offence

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of Zina (Enforcement of Hudood) Ordinance, 1979 and sentence under this article is set aside. However an attempt to commit an offence under this article is established for which appellant No.1 namely Gul Sambar is convicted under article 18 read with article 11 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 and is sentenced to undergo R.I. for 12½ (twelve and half) years which shall run concurrent with sentences under other sections/articles. Offences under other sections and sentences are established and conviction/ under the same are not interfered with.

12. Now we turn to the plea of defence that no mens rea is attached with appellant Mohammad Zahir as there is no overt act transpiring on his part and hence his conviction is uncalled for. First of all the prosecutrix Mst.Buzrig Bibi (PW-2) has clearly involved this appellant in her deposition during cross. She has replied to certain suggestions made to her during cross by the counsel for appellants Gul Sambar and Mohammad Zahir, "I went on foot from my house to Sayyadabad alongwith accused Barat Khan, Ajab Khan, Abdul Aziz, Abdul Hakeem, Mohammad Zahir, Mohammad Ali Khan. Voluntarily said that these accused took me dragging while I was bare-footed, naked-headed. It is incorrect that accused Mohammad Zahir was not among those who had dragged me from my house upto Sayyadabad." Ghulam Sarwar (PW-3) has clearly mentioned in his deposition that Mohammad Zahir was accompanying and co-operating with appellant Gul Sambar in his jeep from Ayun to Darosh to Gingeret

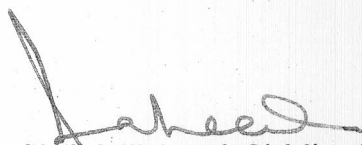
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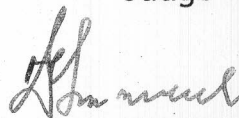
to Biwri where from absconding accused Barat Khan joined them. Then they went to Gingeret, had their meals, and alongwith other accused returned back to Ayun. This piece of evidence is creating strong circumstantial evidence about the presence of appellant Mohammad Zahir in the earlier part of the whole show and his active co-operation in preparation for the offence. Zafar Ahmed (PW-4) has also connected this appellant with the active participation in the commission of the crime in the following words. "On the date/night of occurrence at about 1½ hours there was a knocking on my house. I asked my mother to see outside. My mother returned and told me that Gul Sambar, Mohammad Ali and Mohammad Zahir were standing outside and are saying that their mother is ill and to take her to hospital vehicle is needed. I went outside and saw that the above mentioned farmers are standing out."

In view of this evidence and other attending circumstances, the overt act of appellant Mohammad Zahir in the commission of the crime to the extent he has been held responsible by the trial court stands proved beyond any reasonable doubt. Consequently his conviction and sentence is maintained.


Thus this appeal fails and is dismissed in the aforementioned terms.

Orders accordingly.


(Abdul Waheed Siddiqui)
Judge


(Dr. Fida Muhammad Khan)
Judge

Announced today the 7th April,
1997 in open Court and fit for reporting.
Islamabad.


(Abdul Waheed Siddiqui)
Judge

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