

**IN THE COURT OF JAHANGIR ALI GONDAL,
ADDITIONAL SESSIONS JUDGE, RAWALPINDI,**

Sessions Case No.....71 of 2019

Sessions Trial No.... of 2019

The State Vs. Ansar Zia

Case FIR No. 771/19

Dated: 01.10.2019

Offence u/s 376/511 PPC

Police Station: New Town, Rawalpindi

Date of Decision: 03.02.2020

03.02.2020

Present:- Accused person Ansar Zia on bail with his counsel.
Mr. Aqeel Awan, learned DDPP for the State
Complainant Israr Akhter in person.
Victim Mst. Haleema Sadia in person.

JUDGMENT

The accused namely Hazrat Hussain sent to face trial in case FIR No. 771/19, dated 01.10.2019 under offence 376/511 PPC, got registered at Police Station New Town, Rawalpindi by Israr Akhter son of Muhammad Akhter.

2. Brief facts of the case are that on 01.10.2019 the accused attempted to commit rape with Mst. Haleema Sadia daughter of the complainant.

3. Formal charge against the accused was framed to which he pleaded not guilty and claimed trial under the law. Prosecution was asked to substantiate the charge against accused through production of evidence. Prosecution produced two witness's complainant as Pw-1 and victim Mst. Haleema Sadia as Pw-2.

4. Accused submitted application u/s 265-K Cr.P.C. Notice of the said application was given to the prosecution.

5. **Arguments heard and record perused.**

6. Allegation against the petitioner/accused is that he attempted to commit forcibly rape with Mst. Haleema Sadia daughter of complainant. Complainant Israr Akhter appeared before the court as Pw-1 and deposed on oath that he got registered the case due to misunderstanding against the accused. He is no more interested in further prosecution of case. He has no objection if the petitioner/accused would be acquitted from the case. Similarly, victim Mst. Haleema Sadia Pw-2 deposed on oath that the accused did not attempt to commit rape with her. Both the PWs were declared hostile on the request of learned DDPP for the State and during the cross examination nothing favourable to prosecution came on record.

7. Since the complainant Pw-1 and victim Pw-2, who are the star witnesses of the prosecution, have exonerated the accused persons from the commission of offence and they are no more interested in further prosecution of case, hence they cannot be compelled to do so. As Pw-2 victim has specifically and categorically deposed on oath that the accused person did not attempt to commit forcibly rape with her. In the light of the statement of the victim the charge against the accused has become groundless and there is no possibility or probability of accused being convicted in this case if the remaining evidence is summoned and recorded. No useful purpose would be served by continuing this trial further. If the trial is continued it would amount only to wastage of precious time of the court and to create hardships and difficulties for the accused. This is not a fit

case for conviction of accused. Consequently, remaining prosecution evidence is not summoned and recorded. Petition filed by the accused does fall within the ambit of provisions contained in 265-K Cr.P.C. and the same is hereby accepted and accused Ansar Zia is acquitted from the instant case under section 265-K Cr.P.C. Accused is on bail, his bail bonds and surety is discharged. Case property, if any, be dealt with in accordance with law after the expiry of period of appeal or revision, if any. File be consigned to the record room after its due completion.

Announced
03.02.2020

Jahangir Ali Gondal
Addl. Sessions Judge, Rawalpindi

Certified that this judgment consists of 03 pages and each page has been dictated, read, corrected and signed by me.

Addl. District Judge, Rawalpindi

03.02.2020

Present:- Accused person on bail with his counsel.
Mr. Aqeel Awan, learned DDPP for the State
Complainant Israr Akhter in person.
Victim Mst. Haleema Sadia in person.

Vide my separate judgment even dated petition u/s 265-K Cr.P.C. is accepted. The accused person is hereby acquitted from this case u/s 265-K Cr.P.C. Accused person is on bail, his bail bond and surety is discharged. Case property, if any, be dealt with in accordance with law after the expiry of period of appeal or revision, if any. File be consigned to the record room after its due completion.

Announced
03.02.2020

Jahangir Ali Gondal
Addl. Sessions Judge, Rawalpindi