

P L D 2007 Supreme Court 71

Present: Rana Bhagwandas, Saiyed Saeed Ashhad and Hamid Ali Mirza, JJ

GHULAM HUSAIN SOOMRO---Petitioner

Versus

THE STATE---Respondent

Crl. P.L.A. No.57-K of 2005, decided on 20th December, 2005.

(On appeal from judgment of Sindh High Court, Karachi dated 3-6-2005 passed in Crl. ATA Appeal No.57 of 2003).

Penal Code (XLV of 1860)---

---S. 365-A/34---Anti-Terrorism Act (XXVII of 1997), Ss.6(2)(e) & 7(e)---Constitution of Pakistan (1973), Art.185(3)---Reappraisal of evidence---Delay in lodging of F.I.R.---Minor discrepancies and deviations in prosecution evidence---Allegation against accused/petitioner was that he along with co-accused kidnapped the son of complainant---Captive was recovered at pointing out of accused; chains and cloth used at time of confinement of captive were recovered from possession of accused and co-accused---Trial Court while convicting accused and a co-accused sentenced accused/petitioner to imprisonment for life and forfeiture of his movable and immovable properties---Appeal filed against conviction was dismissed by High Court---Accused contended that F.I.R. was belated by 36 hours and that accused was falsely implicated on account of his business relations with father of captive---Validity---Mere delay in lodging of F.I.R. was not always fatal to prosecution cases, though in some cases it might militate against bona fides of prosecution---In cases involving kidnapping of young persons for ransom, parents as well as police invariably try their best to locate the victim rather than promptly lodging F.I.R. for fear of death of victim---No adverse inference was to be drawn against prosecution on ground of delay alone in lodging of F.I.R.---Cases of kidnapping for ransom were to be dealt with iron hands and even if there were minor discrepancies and deviations in evidence or shortfalls on part of investigating agency, the Courts were always to be dynamic and pragmatic in approaching true facts of the case and drawing correct and rational inferences and conclusions arising out of facts and circumstances of each case---Where innocent persons were wrongly roped in by prosecution or falsely involved by unscrupulous investigating officers, Courts were to maintain balance while arriving at truth or falsehood of the matter by sifting grain from chaff---Accused in the present case was directly involved in commission of offence and he was rightly convicted by Trial Court---Judgments passed by Trial Court and High Court did not suffer from misreading of record or misconstruction of evidence---Leave to appeal was refused.

Muhammad Ashraf Kazi, Advocate Supreme Court for Petitioner.

Nemo for the State.

Date of hearing: 20th December, 2005.