JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD, JUDICIAL DEPARTMENT

Crl. Appeal No.417-2023

Ahsan Ali Gardezi

Versus

The State.

And

Jail Appeal No.476-2023

Ahsan Ali Gardezi

Versus

The State.

Appellant by:	Mr. Muhammad Abdul Rafeh, Advocate. Mr. Faisal Nawaz, Advocate for appellant in J.A No.476-2023 at State expenses.
State by:	Mr. Muhammad Wajid Munir, DDPP. Mr. Rehan Seerat and Ch. Hayat Kamil, Advocates for complainant. Ijaz and Maryam Sikandar victim's parents present. Zulfiqar Ali, S.I.
Assisted by:	Ms. Aymen Aziz, Law Clerk, Islamabad High Court.
Date of Hearing:	12.05.2025.

MOHSIN AKHTAR KAYANI, J: Through the instant appeal, the appellant has assailed the judgment dated 23.10.2023, passed by learned Additional Sessions Judge GBV Court (West), Islamabad, whereby appellant has been convicted in case F.I.R No.781 dated 11.09.2022, under Section 377-B PPC, P.S Ramna, Islamabad and sentenced to Fourteen (14) Years imprisonment with fine of Rs.10,00,000/-. In case of default in payment of fine, he shall further undergo 03 months

S.I. The benefit of Section 382-B Cr.P.C. was also extended to the appellant.

2. Brief facts referred in the instant appeal are that the complaint, Exh. P.A has been lodged by Muhammad Ijaz-ul-Haq, PW-01, with the allegation that on 11.09.2022, he along with his wife Maryam Sikandar and two children, namely Harim Haq, aged about 10/11 years, and Fayyaz-ul-Haq, aged about 07 years, went to the house of his wife's father, namely Sikandar Hayat, PW-03, the maternal grandfather of the children. On the same day, at Maghrib time, the maternal grandfather Sikandar Hayat and the two children, Harim Haq and Muhammad Fayyaz, went to offer Maghrib prayer at Jamia Masjid Ghosia, situated at Saba Market, Street No.111, Sector G-11/3, Islamabad. The grandfather of the children went inside the Masjid for prayer, while the two children were sitting outside the Masjid on a stone Bench. In the meanwhile, an unknown accused person came on a motorcycle and started sexually harassing his daughter. He kissed the victim on her lips and also touched her private parts, thereafter left the spot. The daughter narrated the said incident. The complaint, Exh. P.A, was converted into F.I.R No.781, dated 11.09.2022, under Section 377-B, through Exh. P.A/1 by the police. The Investigating Officer, Asif Khan S.I, PW-12, started the Investigating after the registration of FIR by the duty officer Zafar Ali S.I, PW-04. The Investigating Officer got the statement of the victim, Harim Haq, recorded under Section 164 Cr.P.C before the Magistrate, PW-11, and

also collected the CCTV footage from different cameras installed near the place of occurrence. Specifically, Ayaan Plaza, which is in front of the mosque, where the entire incident was captured in the CCTV footage obtained from the security supervisor, Muhammad Yaqub, in USB-1. He also collected the CCTV footage from cameras installed at House Nos.87 and 88, Street No.111, G-11/3, Islamabad, and verified that the accused was wearing a blue-coloured shirt, yellow skin pant, and a black-coloured cap. These videos were taken through USB-2. He also inspected another CCTV footage from a nearby street and, on the basis of identification features and his Investigating, apprehended Ahsan Ali Gardezi (appellant), on 03.10.2022. Upon his personal search, he found cash amounting to Rs.600, Exh.P3. He also transmitted two USBs containing CCTV footage to the FIA, Cyber Crime Wing for forensic analysis. On the disclosure of the appellant, the place of occurrence was identified, an identification memo was prepared, and the clothes worn by the appellant at the time of the occurrence only, a blue shirt with lines (P12), skin-colored pants (P13), and a black cap (P14) were recovered from his house at Shah Allah Ditta on his own pointation from his room. The final report under Section 173 Cr.P.C. was submitted after recording the statements under Section 161 Cr.P.C of all the witnesses.

3. The trial Court framed the charge on 30.01.2023 under Section 377-B PPC against the appellant, whereby he denied the charge and claimed trial. Consequently, 12 prosecution

witnesses have been recorded along with documentary evidence Exh.PA to Exh.PR and the appellant also took defence. Therefore, three defence witnesses DW-01 to DW-03 were also recorded along with the statement Section 342 Cr.P.C, whereafter trial Court convicted the appellant accordingly.

4. Arguments heard and record perused.

5. Perusal of record reflects that the entire case of sexual abuse revolves around the allegation of the victim Mst. Harim Haq (DW-02), a minor aged 10/11 years, who along with her younger real brother Muhammad Fayyaz Ul Haq, aged 7 years (DW-05), in the company of her maternal grandfather Sikandar Hayat (DW-03), on 11.09.2022, went to offer Maghrib prayer in the nearby mosque when the appellant sexually abused the victim Mst. Harim Haq.

6. In order to prove this case, the prosecution supported their case through evidence of maternal grandfather Sikandar Hayat, PW-03, who confirms that on 11.09.2022, her daughter Maryam Sikandar and son-in-law came to his house with two minor children Harim Haq and Fayyaz Ul Haq, DW-02 and DW-05 respectively and on the same day, when he went to offer Maghrib prayer, both the children accompanied him at Saba Market, Street No.111, Sector G-11/3, Islamabad, Masjid Ghosia. He went inside and two minor grandchildren were sitting outside on a stone Bench and during the said period, the accused sexually abused the minor victim. PW-03 Sikandar Hayat was cross-examined at

length, who confirmed that the children were sitting on the right side bench from the entrance of the Masjid and confirmed that minor told him that "the accused had touched and pulled the victim and kissed the victim at the time of occurrence". Similarly, the complainant, father of the victim Ijaz Ul Haq, PW-01 has also given the similar statement that her daughter told him that *"the said accused parked his bike and came near to the victim Harim Haq and sit next to her". He started to commit obscene act with my daughter. He kissed the victim on her lips and also touched her private parts and thereafter left the spot when my daughter started crying"*. This statement of two witnesses require direct evidence, which has been narrated by the minor victim PW-02 Harim Haq, which played a key role in the entire prosecution case. Therefore, her statement is as under:

> *I along with my maternal grandfather and my brother Muhammad Fayyaz ul Haq went to offer Maghrib prayer at Jamia Masjid Ghosia situated at Saba Market Street No.111, Sector G-11/3, Islamabad. My grandfather went inside the Masjid for prayer while I and my brother were sitting on a stone bench outside the Masjid in front of the football ground. In the meanwhile, an unknown accused (who was later identified by me as Ahsan Ali) who was wearing blue color shirt with stripes and skin yellow color pant came towards us on his bike with unknown number. The said accused parked his bike. After sometime he came near to me and sit next to me. He started talking to me and started asking different questions. Thereafter the accused parked his bike. Thereafter the accused forcefully kissed me on my lips 03/04 times*

and I and my brother pushed him away and hit him multiple times. I and my brother ran to save ourselves but he followed us there. Then we ran back towards Masjid but he followed us there as well. The accused then went towards his bike and came back with a leaf in his hand and said that if I could catch that leaf he would go away. I did not catch that leaf and we were trying to run inside the Masjid but the accused caught me and picked me up. He touched my private parts. He then touched my ears because I was wearing gold earrings. As the prayer was about to get over, the accused asked me to go with him to drink water at the side of the Masjid but I refused. The accused then decamped from the spot as the prayer was about to get over.

7. The minor victim (PW-02) was confronted with certain questions by the Court before recording her statement, and the trial Court was of the view that the minor understood the nature of every act and gave rational answers to the questions put to her. Therefore, considering the above, the appellant's side cross-examined the minor victim (PW-02). During her testimony, she confirmed the facts regarding accompanying her maternal grandfather for the Maghrib prayer and also confirmed that there is a market in front of the Masjid. She stated that few people were passing by the market and that people were also entering and exiting the mosque. She confirmed, *"We were sitting near the main door of the Masjid."* She further confirmed, *"it is correct that my brother Fayyaz was also present with me, who is the second direct eyewitness of the incident,"* and also stated, *"We were sitting on the right bench of the Masjid."*

8. The victim was confronted with a specific and direct question regarding the identity of the accused, to which she responded, *"I remember the face of the accused, who came at the time of occurrence. I did not see the accused person at the police station."* This statement confirms that she is mature enough to comprehend the situation and possesses a strong memory, enables her to identify the accused, who was later identified to be Ahsan Ali Gardezi. Furthermore, during cross-examination, the defence counsel put additional questions, which were answered by the child victim (PW-02) in a very particular and detailed manner. She stated, *"There was a beard on the face of the accused. The accused was wearing a blue-coloured shirt with white stripes and yellow-coloured pants. The accused came on a bike. He parked his bike, then took a round and came near us."* These are specific and distinctive features of the accused.

9. Therefore, this part of the identification of the accused person, especially the appellant, has to be seen in comparison with the second eyewitness, Muhammad Fayyaz-ul-Haq (PW-05), who also reiterated his stance in affirmative evidence regarding the incident of 11.09.2022. He confirmed that he, along with his sister and grandfather, went to offer Maghrib prayer at the mosque. Both he and his sister sat outside the mosque while their grandfather went inside. At that time, the accused started talking to them, asked various questions, and committed obscene acts with him and his sister. As per his affirmative evidence *"The accused kissed my sister. I started*

running. The accused went away and came back, and then again he kissed my sister." This affirmative evidence remains on record.

10. During cross-examination of the direct witness PW-05, the appellant's side did not ask anything to dispel these elements of sexual abuse of the victim (PW-02), despite the eyewitness confirming that bench was on the right side of the mosque's door. He stated that *"It is correct that there is a market in front of the mosque. People were coming and going out of the mosque at the time of the occurrence. I made hue and cry when the accused came."* He further stated *"It is correct that my sister also made hue and cry. The accused kissed my sister. The accused kissed my sister on her lips and went away. Then he again came back and kissed my sister."* He also confirmed *"I did not see the accused present at the police station when I went there."* Therefore, the two direct statements of the child witnesses are relevant for the entire crime scene, and these statements have been viewed in the context of the CCTV footage collected by the Investigating Officer, which was played in the trial Court. This Court has also reviewed the said video, particularly Exh. P1, which was collected from Ayaan Plaza, located in front of the mosque, where a camera had been installed in Saba Market, G-11/3, by Investigating Officer Asif Khan (PW-12). He made a serious effort by collecting three other video clips P1 and P2 in the form of a USB, which were played before us. These pertain to

House Nos.87 and 88, Streets Nos. 111, 112, and 115, Sector G-11/3, Islamabad.

11. The video footage of approximately 31 minutes, obtained from a camera installed in the market on a plaza in front of the mosque (approximately 30 to 40 yards away), confirms that a man approached the children. It also verifies the conversation, and, astonishingly, both minors left the bench in front of the mosque; however, the person chased them. The most astonishing scene in the video footage is when the victim girl hit the accused multiple times to express her anger and reaction against the accused in an attempt to stop him from harassing her, yet the accused continued his actions. This incident corroborates the stance taken by both the victim, PW-02 Harim Haq, and the direct witness, Muhammad Fayyaz ul Haq (aged about 07 years), PW-05, based on the CCTV footage collected by Asif Khan, PW-12. This corroboration leaves nothing in favor of the appellant. Therefore, the statement of the child witness played a significant and key role in this case, where usually no direct evidence is available in incidents of sexual abuse.

12. However, in the present case, the corroborative pieces of evidence support the stance taken by both the victim and her brother, which is further corroborated by the testimonies of their father and maternal grandfather, Sikandar Hayat. In this context, the testimony of the child witness must be examined in light of the standard and threshold laid down in ***PLD 2020 Supreme Court 146 (Raja Khurram Ali Khan v.***

Tayyaba Bibi). The Supreme Court in that case emphasized that, under Article 3 of the Qanun-e-Shahadat Order, 1984, the essential condition for a child or any person to appear and testify as a witness is that the individual must possess sufficient intelligence and understanding to comprehend the questions put to them and must be capable of giving rational responses thereto. This standard has come to be known as the rationality test, and the judicial practice that has evolved over time requires that the trial Court conduct this assessment prior to recording the evidence of the child witness. In the present case, this practice was duly followed. The trial Court rightly held that the victim child successfully passed the rationality test, demonstrating a clear understanding of the nature of the act and providing a coherent and comprehensive account of the incident. The presiding Judge ensured, before recording the testimony that the child was competent to testify in accordance with the criteria laid down by the superior Courts.

13. No doubt, the evidence of a child witness is a delicate matter, and normally, it is not safe to rely upon it unless corroborated, as a rule of prudence. Great care is to be taken to ensure that the evidence of a child is free from any element of coaching, as held in ***PLD 1995 Supreme Court 1 (The State through Advocate General, Sindh, Karachi Vs. Farman Hussain and others)***. In the present case, it is clearly established from the testimony and cross-examination that the child victim was not tutored, nor was his brother

(PW-05) tutored in any manner. This Court also observed from the testimony of the victim that the evidence was given without hesitation and without the slightest suggestion of tutoring or anything of any sort. Furthermore, there is corroboration of the evidence, in so far as it narrates the actual facts, which is the key requirement. The real test is how consistent the story is with itself, how it stands the test of cross-examination, and how far it fits with the evidence and circumstances of the case as held in ***1982 SCMR 757 (Maqsood Khan vs. The State)***.

14. The rule of caution in such type of cases is that where child is the witness or the eyewitness, who appears in the witness box is intelligent enough to understand as to what evidence he is giving, he should be able to give rational answers to the question as held in ***2015 YLR 17 (Mst. Imam Sain Vs. The State)***.

15. In view of the above principles, this Court appreciates the effort made by the Investigating Officer (PW-12), who was cross-examined at length with reference to the CCTV footage (USB-1, P1) collected by him during the course of the Investigating, which led to the arrest of the appellant Ahsan Ali Gardezi. He confirmed that Ayaan Plaza is situated in front of Jamia Masjid Ghosia, the place of occurrence.

16. The CCTV cameras installed on Ayaan Plaza by the security company "Double Tab" covered the place of occurrence. The footage from these cameras was collected and taken into possession through a USB device. During cross-

examination in the trial Court, PW-12 (Investigating Officer) stated *"that the accused seen on the motorcycle in the CCTV footage was wearing a black cap. The registration number of the motorcycle was not clearly visible in the footage"*. He was also confronted with questions regarding the alleged obscene act, to which he responded, *"the accused is visible in the CCTV footage collected from the camera installed at Ayaan Plaza while committing the alleged obscene act"*. It is further confirmed that the footage shows the accused arriving on a motorcycle, parking it adjacent to the wall of the Masjid, and then approaching the victim and her brother, who were sitting on a cemented block. The accused is seen touching different parts of the victim's body, and the victim is visibly pushing him away. The accused is clearly seen touching the victim, though I cannot specify which part of the body was touched at the time of the occurrence.

17. This aspect was verified during the Investigating and is supported by the testimony of victim (PW-02) and the Investigating Officer. He was again confronted with a similar question and reaffirmed that the accused is visible while touching the victim. Regarding the facial features, he confirmed that the facial features of the accused are somewhat visible in the CCTV footage captured by the camera installed at House No. 87/88, Street No.111, Sector G-11/3, Islamabad. He further confirmed that a forensic analysis of the CCTV footage was conducted.

18. As per the forensic report, the CCTV footage was found to be genuine, without any editing or tampering. In addition to the above evidence, the victim, Harim Haq (PW-02), also identified the appellant in the identification parade conducted in District Jail, Adayala, through Exh. PP/1-5. The victim categorically explained the role of the appellant that *"After this, he forcibly kissed me three or four times on my lips. My brother and I got up and tried to push him away. I even tried to hit this person, upon which he started laughing and asked me to hit him more."* This aspect of the statement, regarding the role described by the victim, was verified through the CCTV footage and further explained by the Investigating Officer (PW-12). Therefore, this Court firmly believes the identification to be correct under the law, and there is no indication of tutoring or tampering.

19. Even otherwise, victim also recorded her statement under Section 164 Cr.P.C. before Magistrate Abdullah Khan (PW-11). In order to ease the victim and provide a conducive environment for restoring her confidence, a female Magistrate, Miss Nihal Hafiz (AC Pothwar), was also called for recording the statement. The victim's statement was rightly recorded, clearly describing the incident. She stated that the accused forcibly kissed her on the lips 03/04 times, after which she and her brother pushed and hit him multiple times and ran to the other side, but he followed them. Similarly, the statement under Section 164 Cr.P.C., marked as Exh.PQ/1-5, serves as another piece of corroborative evidence supporting

the prosecution's case. The appellant, in his statement recorded under Section 342 Cr.P.C., denied the occurrence of the incident and also produced three defence witnesses to prove his *alibi*, namely Zamir Abbas (DW-01), Syed Naveed Hussain (DW-02), and Malik Mohammad Sajjad (DW-03).

20. But all three defence witnesses failed to create any impact in this strong case of the prosecution, which is supported by the victim, direct evidence, and corroborative CCTV footage. In addition to the above, the appellant himself got recovered the blue-coloured T-shirt with lines (P12), skin-coloured pant (P13), and black-coloured cap (P14) from his room, which also constitute supporting and corroborative evidence against the appellant.

21. Speaking of CCTV, it is pertinent to mention that it has become a practice that the CCTV footage obtained from private premises such as houses, shops, plazas or buildings is often excluded solely due to the absence of testimony from the premises' owner, despite the availability of a forensic report. However, it is important to understand that such owners are not the authors of the footage; they did not create or edit it they merely own the place where the camera was installed. This is fundamentally different from a situation where someone personally records a video using a phone or camera. In cases where CCTV footage is submitted along with a forensic report from the National forensic Agency, which confirms the footage has not been edited, tampered with, or AI-generated, that report should be treated as per se

admissible evidence. Under Section 510 Cr.P.C, forensic reports are admissible without the expert being called as a witness, unless the court deems it necessary in the interest of justice. Section 4(2) of the NFA Act 2024 further confirms that "the report and opinion of the Agency shall be an admissible evidence in courts and tribunals for the purposes of section 510 of the Code of Criminal Procedure, 1898 (Act V of 1898) and Articles 59 and 164 of the Qanun-e-Shahadat Order, 1984 (P.O. No. 10 of 1984)." The aspect of per se admissibility of expert report is affirmed by the Supreme Court in ***PLD 2021 SC 362 (Ali Haider alias Pappu Vs. Jameel Hussain and another)*** that such forensic reports are admissible on their own and should be used to expedite criminal trials. Therefore, once the authenticity and integrity of CCTV footage are confirmed through forensic analysis, there should be no legal requirement to summon private individuals (like homeowners or shopkeepers) merely to validate footage they neither created nor altered.

22. Now adverting to the concept of sexual abuse as defined in Section 377-A PPC, it is a composite offence encompassing multiple acts, including but not limited to fondling, stroking, caressing, exhibitionism, voyeurism, or any obscene or sexually explicit conduct, or the simulation thereof whether committed independently or in conjunction with other acts, with or without consent, and regardless of whether the victim is under the age of 18. In a patriarchal and conservative society like Pakistan, where honor-based, silence and victim

shaming culture are prevalent, the sensitive issues like Child Sexual Abuse (CSA) go unreported. Therefore, a small and limited scholarship is available regarding the CSA victims. There are several factors that can be the reasons of CSA but the most genuine element is the vulnerability of children as they are incapable to defend themselves. The form of CSA ranges from improper/bad touch to Rape or Sodomy. The grave offences like Rape/sodomy get the highlight being serious in nature however, the others being apparently mild in nature are suppressed or compromised.[1] This compromise or silence on the part of parents or the child/victim does not diminish the after effects on the mental health of the child/victim-survivor. The CSA has the potential to cause lifelong psychological effects bind with stigma and mental trauma. These psychological revenge from guilt to shame, confusion, self-destructive behavior, feelings of isolation, social anxiety, feeling of stigma, post traumatic symptoms, depression, helplessness, aggressive behaviors, negative attributions, personality disorders and behavioral problems, substance abuse, poor self-esteem, sexual problems, divorce, eating disorders and mental illness. According to an annual report of an NGO name “Sahil”[2] has shown that the cases of CSA increased from 2011 to 2018. The number of cases in the year 2010 was 2,252 whereas in 2016 the number increased to 4,139.

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[1] Batool S., Abtahi A., (2017). Psychosocial Impact of Childhood Sexual Abuse: Perspective of Victims Journal of Arts and Social Sciences 4 (2), 36-48

[2] Avais MA, Narijo H, Parker M. A Review of Child Sexual Abuse in Pakistan Based on Data from “Sahil” Organization. J Islamabad Med Dental Coll.2020; 9(3):212-218. Doi: 10.35787/jimdc. v9i3.41

23. Parenting is a skill, which not all the parents in Pakistan are familiar with, they trust almost everyone in their families with their children and leave children with them. According to studies sexual abuse is more likely to be faced by the acquaintances however, it is both 'intra' and 'extra' familial phenomenon. It is the duty of the parents to talk about "good touch" and "bad touch" with their children and do not let them stay in darkness or unattended. The confidence to report abuse comes from the strong upbringing.

24. Other than strong parenting two most important preventive measure of CSA are educational programs and, management programs. Educating children in schools, building children knowledge about abuse and educating them preventive measures are very effective. The second measure that schools can take is teaching children management by making them responsible and how to deal with strangers and family members. In essence, to curb CSA an integrated approach and collective effort is required from parents, teachers at schools and Madrassah and the state departments. Their collective effort is required to protect the children of the state from all sorts of abuse including sexual abuse which will protect them from mental torture, trauma, depression and other psychological issues and will protect their mental health.

25. We have also gone through the domestic and international legislation that protect the children rights and put an obligation on the state to provide protection to the

children of the state. As far as domestic legislation is concerned, in 2018 an ICT Child Protection Act 2018 was promulgated to protect the children in the Islamabad capital territory from all forms of physical or mental violence, injury, neglect, maltreatment, exploitation and abuse. Similarly, international Conventions and Declarations also talk about the protection of children from any form of abuse and put an obligation on the head of state to protect the children. From the text/language of the Convention it becomes apparent that the core duty is of the state to protect the children as they are the children of the state. Declaration of The Rights of the Child 1959 says that the child must be protected from all forms of neglect, cruelty and exploitation. Other than this the Convention on the Rights of the Child, 1989 is a comprehensive treaty on children's rights between the party state. State parties should take reasonable measure to protect the children from all forms of abuse and exploitation. Children should be protected from sexual abuse. Children are sexually abuse by legal guardian, their parent and other person who has the care of child. Judicial involvement should be necessary to protect children from abuse (Article 19). The convention assigns duty to government to provide protection and assistance to children who deprived of a family (Article 20).

26. State Parties of convention have duty to protect children who work in hazardous place. Children should be protected from economic exploitation. This exploitation interferes in the

education of children and very harmful to the health, physical, moral, mental and social development of children (Article 32). State parties use reasonable measures to protect children from abduction, sale and traffic for any purpose (Article 35). The Convention provides that state parties must take reasonable measure to protect children from child pornography, child prostitution. It means state parties should protect children from all forms of sexual exploitation (Article 34). Any child suffers from injury from any types of exploitation or abuse, torture, any type of cruel, inhuman treatment and punishment, shall be protected by state parties of convention (Article 37 (a) and (b).

27. In the present case, the narration of events provided by the victim confirms that, in the 31-minute CCTV footage, the victim was harassed, inappropriately touched on private parts, and kissed 03/04 times by the appellant. Such conduct clearly falls within the ambit of sexual abuse as defined under Section 377-A PPC.

28. Now the question arises what sentence should be awarded to such a type of accused person? We have considered the definition and the sentence provided in law, which is not less than 14 years. The minimum punishment prescribed by the legislature for such offences is intended to protect minor children, who are helpless and cannot defend themselves. Therefore, such perpetrators child molesters cannot be allowed to go scot-free, and exemplary punishments be awarded to safeguard the future of children

in Pakistan. In this regard, the sentence awarded by the trial Court fulfills the requirements of the case, and the prosecution has successfully proved the case beyond any shadow of doubt.

29. In view of the foregoing discussion, no ground for interference with the judgment of the learned trial Court has been made out by the appellant. Consequently, the instant appeal stands **DISMISSED** and the sentence awarded to the appellant is hereby **MAINTAINED**.

30. Before parting with this judgment, it is appropriate to issue certain non-binding recommendations for the Government to consider. It is suggested that Sections 377-A and 377-B of the Pakistan Penal Code be reviewed, as they presently cover a broad range of sexual acts without distinction. Section 377-A includes a wide spectrum of offences, ranging from fondling to sexually explicit conduct. These offences differ significantly in nature and gravity, yet they are consolidated under the single heading of 'sexual abuse', carrying a uniform punishment bracket of 14 to 25 years, with no discretion left to the Court.

31. The following suggestions are made to amend the law keeping in view the gravity of the act and the punishment for each act USs 377-A and 377-B PPC should be separately categorized:-

i. *Section 377-A PPC contains voyeurism, exhibitionism, and coercive fondling, differ significantly in terms of harm and intent. Therefore, each act should be defined as distinct*

offence with separate punishment based on the gravity of the offence.

ii. *A uniform minimum sentence of fourteen years judicially does not adequately serves the purpose. It would be more appropriate if punishment for each act U/Ss 377-A and 377-B PPC is categorized keeping in view the gravity and heinousness of the act.*

iii. *The punishments U/Ss 377-A and 377-B PPC some times does not corroborate with the gravity of act, which though falls within the ambit of offence U/Ss 377-A and 377-B PPC but is of minor nature.*

iv. *In other countries of the world like U.K. the punishment has been categorized for acts like voyeurism and inappropriate touching. Such like model would be more useful to cater such like offences.*

(SAMAN RAFAT IMTIAZ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on _____

JUDGE **JUDGE**

APPROVED FOR REPORTING.

RAMZAN