IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE-I EAST-ISLAMABAD.

Before:- RAJA ASIF MAHMOOD.

Case UN No. 110593.

The State through Malik Yasir S/O Ejaz Ahmed.

Versus.

Gull Nawaz S/O Fareed Gull.

CASE FIR NO. 113/25, DATED 21.04.2025, UNDER SECTION 376-III/511 PPC, REGISTERED AT POLICE STATION PHULGRAN, ISLAMABAD.

J U D G M E N T.
07.04.2026.

Present: Accused Gull Nawaz produced in custody.

Khurshid Ahmed Khan Advocate, learned counsel for the accused.

Yahya Butt Advocate, learned counsel for the complainant.

Learned SPP for the State.

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1. The above mentioned accused was sent up to face trial in case FIR No. 113/25, dated 21.04.2025, registered under Section 376-III/511 PPC, at Police Station Phulgran, Islamabad with the allegations that on 21.04.2025, at about 03:30 pm, in the area of Madrassa Soorat Ul Quran Academy, he put something in the mouth of victim Mst. Aima and attempted to commit her rape, hence, charge of commission of offence U/S 376-III/511 PPC was framed against him.

2. Investigation of the instant case was conducted by Akhtar Zaman SI, on 23.04.2025, he joined the victim Aima in investigation of this case and recorded her statement U/S 161 Cr.P.C. Accused was also in police custody and he interrogated him. On 24.04.2025, he got issued the English docket from the SSP Office regarding

submission of parcels to PFSA. On 28.04.2025, he produced the accused before the Court of concerned Judicial Magistrate and obtained his physical remand of 04 days. On 29.04.2025, he received the sealed sample parcels of victim said to contain last worn clothes and blood sample of the victim and her MLC No. 967 from polyclinic hospital through constable Afaq and further handed over to Mohrar Mal Khana for keeping the same in safe custody. He recorded statements U/S 161 Cr.P.C of Afaq constable and Mohrar. On 30.04.2025, he took the accused to polyclinic hospital and submitted application Ex-PG for his medical examination and also obtained his sealed blood sample parcel bearing stamp of "FGSH" for DNA analysis. He handed over sealed blood sample parcel of accused to Mohrar Mal Khana for keeping it in safe custody. He recorded statement U/S 161 Cr.P.C of Mohrar. On 02.05.2025, he took the accused and victim alongwith above mentioned all sealed sample parcels to PFSA through road certificate No. 189/25. Buccal swabs of the victim and accused were obtained by PFSA and after depositing the above mentioned sealed sample parcels to PFSA, he came back to police station and handed over road certificate to the Mohrar bearing acknowledgment of PFSA. Thereafter, he produced the accused before the Court of concerned Judicial Magistrate and obtained his physical remand of 01 day. He also recorded statement U/S 161 Cr.P.C of the Mohrar. On 03.05.2025, he again produced the accused before the Court of concerned Judicial Magistrate and sent him to judicial lockup on judicial remand. On 14.05.2025, he produced the victim Aima before the Court of concerned Assistant Commissioner for recording her statement U/S 164 Cr.P.C. The Assistant Commissioner did not record the statement of victim as victim was

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unable to answer the questions of Assistant Commissioner due to her tender age. Order of Assistant Commissioner is available on application Ex-PK. On 15.05.2025, he handed over the case file to SHO for submission of report U/S 173 Cr.P.C.

3. After receiving report U/S 173 Cr.P.C against accused, requisite copies U/S 265 (C) Cr.P.C were delivered to him and charge was framed against him U/S 376-III/511 PPC on 04.11.2025, to which, he pleaded not guilty and demanded trial. Thereafter, the prosecution was directed to produce its evidence, which is as under:

PW-1. Ghulam Rubab 145/LC, *She stated that she alongwith Younis ASI took the victim to polyclinic hospital.*

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PW-2. Malik Yasir Ejaz: *He is complainant of the instant case and he stated about the whole story of occurrence narrated to him by the victim. He also deposed about submission of application Ex-PA for registration of FIR against the accused, about taking the victim to hospital for her medical examination and about taking the victim before the Court of concerned Executive Magistrate for recording her statement U/S 164 Cr.P.C.*

PW-3. Faiza Bibi: *She is mother of the victim and she deposed whole story of occurrence narrated to her by the victim.*

PW-4. Aaima: *She is the victim of instant case and she deposed about the story of occurrence committed by the accused with her.*

PW-5. Afaq Khan 1842/C: *He deposed that on direction of the IO, he went to polyclinic hospital for the purpose to bring MLC of the victim alongwith sealed blood sample parcels of the victim. After reaching police station, he handed over the above said MLC and sealed sample parcel to the IO.*

PW-6. Muhammad Ahmed SI: *He went to polyclinic hospital and took the victim and complainant of the case to the place of occurrence, conducted spot inspection and prepared un-scaled site plan Ex-PB on pointation of complainant and the victim. He further deposed that he formally arrested the accused.*

PW-7. Iltaf Hussain 2100/HC: *He deposed that he kept sealed sample parcels in malkhana for safe custody and further handed over to the IO for onward transmission to PFSA.*

PW-8. Muhammad Younis ASI: *He was Duty officer at P.S Phulgran on the day of occurrence. After receiving application Ex-PA, he registered FIR No. 113/25 Ex-PC of the instant case. He further deposed that he took the victim to polyclinic hospital for her medical examination.*

PW-9. Dr. Mehwish Hameed: *She medically examined the victim, obtained her blood sample for DNA analysis and also saved the dress of victim for DNA analysis. She also prepared MLC No. 967 Ex-PE and emergency ticket token No. 670 Ex-PF also bears her signatures and stamp.*

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PW-10. Dr. Zia Ullah Baittani: *He medically examined the accused and referred back to Urology department for expert opinion. He also obtained blood sample of the accused for DNA analysis. He prepared MLC No. 1056 Ex-PH and also issued letter No. F. FGPC. 041/101/2025-MLC, DATED 30.04.2025 Ex-PJ.*

PW-11. Akhtar Zaman SI: *He is the IO of the instant case and he deposed about different steps taken by him during investigation of the case right from entrustment of investigation till handing over the case file to SHO for submission of report U/S 173 Cr.P.C.*

PW-12. Dr. Atta Ullah: *He conducted medical examination of the accused and found him physically fit. MLC No. 1056 Ex-PH bears his signatures as Ex-PH/2.*

PW-13. Uzair Ali Khan: *The victim was produced before him for recording statement U/S 164 Cr.P.C, however, due to tender age of the victim, she remained unable to reply the questions of learned Assistant Commissioner, therefore, he refused to record her statement U/S 164 Cr.P.C.*

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4. Learned SPP for the State closed the prosecution evidence vide his statement record on 26.03.2026.

5. Statement U/S 342 Cr.P.C of the accused Gull Nawaz was recorded on 01.04.2026 wherein, he refuted the charges leveled against him, however, he did not opt to produce defense evidence or to appear himself as a witness to be examined on oath as witness of his own to be examined on oath under section 340(2) Cr.P.C. While replying to the question that **"*Why the Police registered this case***

against you and why the PWs deposed against you, what would you say?" The accused replied that:-

> *" The alleged complainant got registered the instant case against me on the basis of malafide intention and ulterior motive just to blackmail me and to get some monetary benefits, while joining hands with the police. There are huge contradictions and discrepancies in the statements of all the PWs, who have been deposed falsely. There is huge difference and contradictions in the evidence, which is crystal clear that all the PWs have been deposed falsely. I am innocent. I have not committed any offence".*

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6. Learned SPP for the State opened the arguments and contended that it is a case of sexual abuse and attempt of rape against a minor girl; that the prosecution has produced total 13 witnesses and documentary evidence to prove the charge against the accused; that the victim Aaima appeared before the Court as PW-4 and she stated about the whole occurrence; that statement of the victim alongwith other private witnesses remained un-shattered and un-impeached which has been further corroborated by the other prosecution witnesses; that report of PFSA is against the accused, which is a clear proof about his involvement in commission of offence; that prosecution evidence including statement of the victim, complainant and other PWs, the medical evidence coupled with the recoveries and forensic/DNA analysis report are sufficient to prove prosecution's case against the accused beyond any reasonable shadow of doubt; that the defense remained unable to create any major dent in the prosecution evidence which is otherwise, in line with the prosecution story and sufficient to convict the accused.

Learned SPP further contended that in rape cases, the solitary statement of the victim is sufficient to award conviction against the accused if such statement is reliable and confidence inspiring in the light of facts and circumstances of the case. He lastly contended that if all the pieces of evidence are put a side, the statement of complainant/victim coupled with the forensic/DNA analysis report are sufficient to prove the charge against the accused upto the hilt. He lastly prayed for conviction of the accused and prayed for maximum punishment to the accused for commission of rape.

7. On the other hand, learned counsel for the accused rebutted the arguments advanced by learned SPP for the State. He further contended that false case has been registered against the accused; that story narrated by the alleged victim and the complainant is false and fabricated; that the prosecution evidence is self-contradictory; that the accused has been implicated by the police in connivance with the complainant to fulfill their nefarious desires and to receive illegal gains; that at the time of recording statement of the alleged victim, she did not identify the accused when accused was produced before the Court in custody; that how it is possible that a 06 months baby was used to go Academy for the education of Holy Quran; that prosecution has not produced brother of the victim, therefore, inference can draw against the prosecution; that statement U/S 164 Cr.P.C of the alleged victim was not recorded; that the alleged victim has not attributed any role to the accused; that all the proceedings were carried out by the police while sitting in police station; that there are huge difference and contradictions in the testimonies of the prosecution witnesses; that samples were not

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transmitted to PFSA through safe chain of custody. Lastly learned counsel for the accused contended that there is no other single piece of evidence against the accused in the basket of prosecution. With these submissions he prayed for acquittal of his client in the instant case.

8. I have heard arguments and perused the record.

9. Formal charge against the accused Gull Nawaz is that on 21.04.2025, at about 03:30 pm, in the area of Madrassa Soorat Ul Quran Academy, he put something in mouth of the victim Aaima and attempted to commit her rape, hence, charge for commission of offences punishable U/S 376-III/511 PPC framed against him.

10. To prove the charge against the accused, prosecution produced 13 witnesses i.e Ghulam Rubab 145/LC as PW-01, complainant Malik Yasir Ejaz as PW-02, Mst. Faiza Bibi as PW-03, victim Aaima as PW-04, Afaq Khan 1842/C as PW-05, Muhammad Ahmed SI as PW-06, Iltaf Hussain 2100/HC as PW-07, Muhammad Younis ASI as PW-08, Dr. Mehwish Hameed as PW-09, Dr. Zia Ullah as PW-10, Akhtar Zaman SI as PW-11, Dr. Atta Ullah as PW-12 and Uzair Ali Khan as PW-13.

11. In documentary evidence prosecution brought on record original complaint/application for registration of FIR as **Ex-PA**, un-scaled site plan as **Ex-PB**, FIR of the instant case as **Ex-PC**, application for medical examination of the victim as **Ex-PD**, MLC No. 967 as **Ex-PE**, Emergency ticket token No. 670 as **Ex-PF**, application for medical examination of the accused as **Ex-PG**, MLC No. 1056 as **Ex-PH**, copy of letter No. F. FGPC. 041/101/2025-MLC, dated 30.04.2025 as **Ex-PJ**, order of the Assistant Commissioner on application for recording statement U/S 164 Cr.P.C as **Ex-PK/2**, DNA

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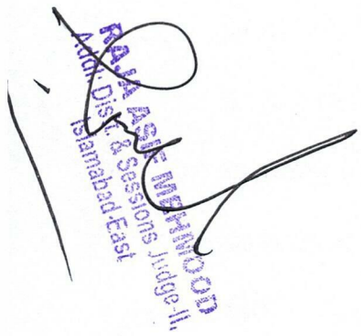
& forensic Serology analysis report of PFSA as **Ex-PL/1-3**. After that learned SPP for the State closed the prosecution evidence.

12. The law was set into motion on the application/complaint Ex-PA, submitted by the complainant Malik Yasir Ejaz, however, the victim Aaima is the most important/star witness being victim of this case, therefore, first of all, I will take up her statement. The victim Aaima appeared before the Court as PW-04 and before recording her statement, she was asked about, her name, school, age, residence parents and what statement she is going to make. She gave rational answers to most of the questions and was found intelligent enough by this Court to understand as to what statement she is going to depose. However, she kept silent on some questions. As she is a minor having age of 05 years, therefore, she was not administered oath. She stated before the Court that:- *"she used to go to Madrassa and Qari Sahab put off his trouser and put dirty thing (گندی چیز) in her mouth, however, she is unable to tell that who was said Qari Sahab. She is also unable to identify the accused when the accused Gull Nawaz alongwith some other accused produced in custody were shown to her, but she remained silent".*

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13. The victim was not cross examined by the learned defense counsel, therefore, her statement will be read as it is and keeping in view the age of victim, it cannot be expected from her to depose like major witnesses. The minor children can also not be expected about the nature of offences, however, from her statement, it has been established before the Court that she used to go to Madrassah and Qari of said Madrassah put something in her mouth, which has been stated by her as *dirty thing*, it may or may not be penis of the accused, however, the Court cannot presume anything

itself. Keeping in view the age of victim, tutoring can also not be ruled out, because the words "dirty thing" were introduced by the victim for the first time before the Court. As per view of Superior Courts of the Country, statement of child witness cannot be relied without due care and caution and for placing reliance upon it, there should always be strong corroboration in its favor on the record. Reliance in this regard placed upon case reported as ***(PLD 1995 SC 1) "State through Advocate General Sindh VS Farman Hussain & others"*** wherein August Supreme Court of Pakistan was pleased to observe that:-



*"**(d) Qanun-e-Shahadat (10 of 18,4)**"*

----Art---Child Witness---Evidentiary Value --- Evidence of child witness is to be assessed with care and caution.

August Supreme Court further pleased to observe that:-

(l) Qanun-e-Shahadat (1.0 of 1984)

----Art---Child Witness, evidence of ---Value--- Evidence of a child witness being a delicate matter was not safe to rely upon unless corroborated

Evidence of child witness is a delicate matter and normally it is not safe to rely upon it unless corroborated. It is a rule of prudence. Great care is to be taken that in the evidence child element of coaching is not involved".

14. In this case, the two other important witnesses i.e. mother of the victim and her uncle, who have corroborated to some

extent the statement of the victim, therefore, it is appropriate to discuss their statements in detail. Mst. Faiza, mother of the victim appeared before the Court as PW-03 and stated on oath that:- *"Her children Muhammad Azlan and Aaima used to go Iqra Surat Ul Quran Academy for their education of Holy Quran in the year 2021. On 21.04.2025, he left both the above said children at academy at about 03:30 pm. Qari Gul Nawaz was present in the academy. At about 04:45 pm, accused left her children including victim Mst. Aaima and other children of the street at the corner of their street and they came home. She noticed that victim Aaima was afraid. She asked from her son Azlan about the reason of fearsome condition of the victim, who stated that Qari Sahab allowed all the children to leave academy accept four little children including Azlan and victm Aaima. Then accused Qari Sahab took inside a room by stating to them that he will teach her the lesson of Kalmah. The accused had closed the door from inside and Azlan heard the voice of weeping Aaima inside. Then he asked from victim Aaima, who stated that Qari Sahab put off his shalwar and put dirty thing in her mouth. She further stated that she started weeping and accused let her move out. Upon hearing about the occurrence from her children, he immediately contacted her brother-in-law (دیور) through mobile phone. After about 45 minutes to 01 hour, her brother-in-law came there and he himself asked victim Aaima about the occurrence and then took her to police station. On the same night, when police came to her house, after visit of the place of occurrence, her statement U/S 161 Cr.P.C was recorded by the IO".*

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15. She was subjected to cross-examination by the learned defense counsel and during said cross-examination she stated that

Madrassa is at a distance of 5/6 minutes walk in the next street of their street. She further stated that it was not mentioned in her statement before the police that her children used to go *Iqra Surat Ul Quran* Academy since 2021. She also cleared that it has been mentioned by her in cross-examination that her son started going to academy 02 years before the occurrence and victim started going to academy, 01 year before the occurrence. She further stated that it was mentioned in her statement U/S 161 Cr.P.C that her brother in law reached home within 45 minutes, when confronted with Ex-DA, wherein it is not so recorded. She further stated that the timing of academy was 3 to 5 pm, whereas, she left the children at 03:30 pm on the alleged day of occurrence. She further stated that she used to leave them to academy daily, however, while coming back, they used to come with other children mostly.

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16. From the above statement of the mother of the victim, it has been successfully proved that on the day of occurrence, she took the minor victim to Madrassa and left her for teaching of Holy Quran and the accused was present there at that time. However, she is not direct eye witness of the occurrence, therefore, the factum of commission of offence by the accused still needs further corroboration through medical and DNA analysis report.

17. Complainant of the case Malik Yasir appeared before the Court as PW-02, who stated on oath that:- *"On 21.04.2025, he was present at Blue Area, in his office i.e. Head office of Naya Tel Pakistan. At about 05:00 pm, he received a call of his sister-in-law (بھابھی) and she stated that victim Aaima, who used to go Iqra Surat Ul Quran Academy for her education of Holy Quran, came to house and she looks afraid. On receiving said call, he obtained leave and*

came back home. When he reached home and asked her about reason of her weeping and she stated to him that Qari Gul Nawaz put off his shalwar and put her penis in her mouth. He took the victim Aaima to Police Station Phulgran and submitted application Ex-PA for registration of FIR. From police station they were taken to polyclinic hospital, where medical-examination of the victim was conducted. He was directed by the doctors to arrange fresh clothes of the victim as her last worn clothes were to be taken by them for the purpose of DNA analysis. He arranged the clothes of the victim from their house through Bykea. From hospital after medical examination, they came back home. In the meanwhile, police contacted him for visit of the alleged place of occurrence. He reached the place of occurrence with police as police vehicle had reached their home to pick him with them. On reaching place of occurrence, IO conducted spot inspection and prepared un-scaled site plan in his presence. Thereafter, police came to their house with him and statement U/S 161 Cr.P.C of his sister-in-law was recorded. On 02.05.2025, he alongwith victim Aaima, IO and accused went to PFSA, where buccal swabs of the victim were obtained. On 14.05.2025, IO also produced the victim Aaima before Magistrate/AC at G-11, Islamabad for recording her statement U/S 164 Cr.P.C, however, the said Magistrate opted to not record her statement due to her age factor".

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18. He was also subjected to cross-examination by learned defense counsel, but no major dent or discrepancy was brought forward by the learned defense counsel during said cross-examination. Moreover, he is also not direct eye witness of the occurrence, therefore, there is nothing special in his statement to further strengthen the prosecution case or to give benefit to the

accused. This Court also considers that the important witness who could have deposed better then complainant, mother of the victim and victim herself is brother of the victim Azlan due to the reason that as per mother of the victim, said Azlan narrated the story of occurrence to her mother prior to the victim, but the prosecution did not produce Azlan before this Court to depose against the accused.

19. The victim was medically examined by Dr. Mehwish Hameed, she appeared before the Court as PW-09 and deposed on oath that: *"On 21.04.2025, her posting was at police station polyclinic hospital as Medical Officer. At about 09:40 pm, Muhammad Younis ASI and Rubab 145/LC produced the victim Aima Basit D/O Basit Ali, then aged about 06 years for her medical examination and submitted application Ex-PD in this regard. The Lady Constable gave history of attempt of rape upon minor victim. Dress of the victim was not changed. The minor was hesitant to tell history about the assault, but telling about bad touch by Qari Sahab. She medically examined the victim and her findings are hereunder:-*

***On medical examination**:- General condition of the minor victim was stable. Her GCS was normal. No mark of acute injury was noted on face, perineal area and body of the victim. Marks of old injury upon body of the victim cannot be ruled out. Dress of the victim was saved for semen and DNA analysis. She also obtained blood sample of the victim for DNA analysis. The victim was refereed back to CMO. MLC No. 967 Ex-PE bears her signatures and stamp as Ex-PE/1. Emergency ticket token No. 670 Ex-PF bears his signatures and stamp as Ex-PF/1 "*

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20. She was subjected to cross-examination by learned defense counsel and during cross examination she stated that at the time of medical examination of the victim, she was quite well and behaving normal. She further stated that the victim was hesitant while giving history, however, she stated before her that Qari Sahab had a bad touch to her. She further admitted that no mark of acute injury was noted on face, perineal area and on the body of the victim. From the above evidence/testimony of the doctor, it has been clearly proved that last worn clothes of the victim were taken into possession and were sealed then and there by the doctor for DNA analysis, therefore, DNA and serology analysis report plays crucial role for the decision of this case.

21. The prosecution also produced two more doctors i.e. Dr. Zia Ullah Baittani and Dr. Atta Ullah. They both appeared as PW-10 & PW-12 respectively. Dr. Zia Ullah obtained blood samples of the accused and referred him to Urology Department, whereas, Dr. Atta Ullah conducted medical examination of the accused. The both doctors were not cross-examined by the learned defense counsel, despite giving opportunity of cross-examination, therefore, their statements will be read as correct and true.

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22. In this case, statement U/S 164 Cr.P.C of the victim was not recorded, as when the victim was produced before the then learned Executive Magistrate for recording her statement U/S 164 Cr.P.C, he made some rational questions upon the victim to ascertain the mental capability of the minor victim, but he did not found the victim about understanding his questions due to her age factor. Uzair Ali Khan appeared as PW-13 and stated on oath that:- *"On 14.05.2025, his posting was as Assistant Commissioner/Magistrate*

1st Class Islamabad and he was present in his office as Duty Magistrate. On 06.03.2025, again said 14.05.2025, the victim Amna again said Aaima was produced before him for recording of her statement U/S 164 Cr.P.C, however, she was of tender age and she was unable to attend questions, therefore, he refused to record her statement U/S 164 Cr.P.C. He is also of the view that minors are in such tender age may be influenced. He passed order upon application of the IO, which is Ex-PK/2, bears his signatures as Ex-PK/3."

23. He was subjected to cross examination by the learned defense counsel and during said cross-examination, he stated that he cannot recall about the condition of the minor when she was produced before him for recording her statement U/S 164 Cr.P.C. As per view of this Court, there is nothing in statement of Uzair Ali Khan, which may give benefit to the accused or to the prosecution.

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24. As per view of this Court, in this case the victim is of tender age and her mother and uncle are not direct eye witness of the occurrence and it is also important to mention here that complainant mentioned in the FIR that accused put something in the mouth of the victim, whereas, while appearing before the Court, he stated that accused put his penis in mouth of the victim. Similarly, mother of the victim in her statement U/S 161 Cr.P.C stated that accused made bad touch to the victim, attempted to commit her rape and put something in her mouth, whereas, when the victim was produced for her medical examination, she stated to the doctor that accused attempted to commit rape of the victim and made bad touch. While appearing before the Court mother of the victim stated that accused put dirty thing in mouth of the victim, therefore, DNA and serology analysis report of PFSA Ex-PL/1-3 can play an important role

for just decision of the case. Findings/result of said report is hereunder:-

"Trace number of spermatozoa were identified on item No. 1.3, 1.8, 1.10 and 2.1.

No seminal material was found on item No. 1.1, 1.2, 1.4-1.6, 1.7, 1.9, 1.11 and 1.12; therefore no further DNA analysis (Short Tandem Repeat profiling) was conducted on these items.

The DNA profile obtained from the sperm fraction of item No. 1.3 is a mixture of at least two individuals. Aaima (item No. V1) and Gul Nawaz (item No. S1) cannot be excluded as being contributors to this DNA mixture profile.

The possible contribution to the DNA obtained from sperm fraction of item No. 1.3 by Gul Nawaz (item No. S1) is approximately 309.3 quadrillion times more likely as compared to an unrelated Caucasian individual.

The DNA profile obtained from the sperm fraction of item No. 1.10 is a mixture of at least two individuals. Aaima (item No. V1) and Gul Nawaz (item No. S1) cannot be excluded as being contributors to this DNA mixture profile.

The possible contribution to the DNA obtained from sperm fraction of item No. 1.10 by Gul Nawaz (item No. S1) is approximately 96.5 quadrillion times more likely as compared to an unrelated Caucasian individual.

The DNA profile obtained from the sperm fraction of item No. 2.1 is a mixture of at least two individuals. Gul Nawaz (item No. S1) cannot be excluded as being a contributor to this DNA mixture profile. Due to limited allelic information, no reliable interpretation

mother of the victim, medical evidence coupled with the DNA and serology analysis report of PFSA is of immense probative value. The report clearly establishes the presence of spermatozoa on the relevant exhibits and further confirms that the DNA profile of the accused Gul Nawaz cannot be excluded as a contributor, with an extremely high statistical probability. The said scientific evidence is consistent, reliable, and unchallenged in material particulars.

31. The evidentiary value of DNA has been authoritatively recognized by the Honourable Supreme Court of Pakistan in ***Ali Haider alias Papoo vs. Jameel Hussain (PLD 2021 SC 362),*** wherein it has been held that DNA evidence is one of the strongest forms of corroborative evidence due to its scientific certainty and accuracy in establishing identity. In light of the above, while the Court is not persuaded to extend the benefit of conviction for rape or attempted rape due to absence of unequivocal and direct proof of penetration or its clear attempt, the totality of circumstances unmistakably establishes that the accused engaged in some form of sexual conduct with the minor victim which falls within the ambit of unnatural sexual offence as contemplated under Sections 377-A and 377-B PPC.

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32. It is a cardinal principle of criminal law that *"an accused can be convicted of a lesser offence if the ingredients of the lesser offence are fully made out from the evidence on record, even if the major charge fails."* This principle is in consonance with the doctrine of partial proof and consistent judicial practice that justice should not fail merely because a more serious charge is not fully proved, provided a lesser cognate offence is clearly established.

33. Applying the doctrine of "benefit of doubt goes to the accused as a matter of right, not concession" as held in numerous pronouncements of the superior Courts, this Court finds that the prosecution has failed to prove the charge under Sections 376/511 PPC beyond reasonable doubt. However, the same evidence, when read as a whole, irresistibly leads to the conclusion that the accused is guilty of committing an offence defined under section 377-A PPC, punishable under Section 377-B PPC.

34. Accordingly, while extending benefit of doubt to the accused in respect of the charge under Sections 376-III/511 PPC, this Court holds the accused Gul Nawaz guilty under Sections 377-A/377-B PPC and convicts him thereunder.

- ***14 year R.I*** *with fine of Rs. one million in offence U/S 377-A/377-B PPC, in case of non-payment of fine on his behalf he shall further undergo 06 months S.I.*
- *Benefit of Section* ***382-B Cr.PC*** *is also extended to the accused. He is in custody and sent to Jail for completion of his sentence.*

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35. Warrant of commitment of accused be issued in the name of Superintendent Central Prison Adyala, Rawalpindi, to carry into execution of the above punishment of imprisonment under this judgment according to law. The case property, if any, be kept intact till the decision of the appeal or revision. Copy of this judgment be also provided to the accused and his thumb impression/signature in this regard be also obtained on the margin of order sheet. Copy of this judgment be sent to District Prosecutor, ICT for information. Police file be returned along with a copy of this judgment, whereas

file of this Court be consigned to the record room after its completion and compilation.

Announced.
07.04.2026

(Raja Asif Mahmood)
AD&SJ/Judge Special Anti-Rape Court
Islamabad (East).

Certified that this Judgment consists of (24) pages, each of which has been read, corrected and signed by me.

Dated: 07.04.2026

AD&SJ/Judge Special Anti-Rape Court
Islamabad (East)

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Islamabad-East

WARRANT OF COMMITMENT

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE-I EAST-ISLAMABAD.

Before:- RAJA ASIF MAHMOOD.

No. _____, dated 07.04.2026.

FIR NO. 113/25, DATED 21.04.2025, UNDER SECTION 376-III/511 PPC, P.S. PHULGRAN, SLAMABAD.

The State VS Gull Nawaz.

To

The Superintendent Central Jail,
Adyala, Rawalpindi.

Whereas, the accused ***Gull Nawaz S/O Fareed Gull*** *in case registered vide FIR No. 113/25, dated 21.04.2025, under sections 376-III/511 PPC, registered at Police Station Phulgran, Islamabad is facing trial before this court and the said accused is hereby convicted as under:-*

- ***14 year R.I*** *with fine of Rs. one million in offence U/S 377-A/377-B PPC, in case of non-payment of fine on his behalf he shall further undergo 06 months S.I.*
- *Benefit of Section* ***382-B Cr.PC*** *is also extended to the accused. He is in custody and sent to Jail for completion of his sentence.*

This is to authorize and require you, the said superintendent, to keep the said accused ***Gull Nawaz S/O Fareed Gull*** *in your custody in the said jail and there to carry into execution the punishment of imprisonment under the said order/judgment according to law.*

Given under my hand and seal of this Court today on ***07.04.2026****.*

Addl: Distt. & Sessions Judge ★ East Islamabad ★

(Raja Asif Mahmood)
AD&SJ/Judge Special Anti-Rape Court,
East-Islamabad.

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