



Innocent Lives 2

Sahil Legal Case Studies

Sahil



Har Bacha Mehtooz

[AS PASSED BY THE NATIONAL ASSEMBLY]

**A
Bill**

*further to amend the Pakistan Penal Code, 1860 and the
Code of Criminal Procedure, 1898*

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860). and the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing:

It is hereby enacted as follows:-

1. Short title and commencement. -(1) This Act may be called the Criminal Law (Amendment) Act, 2015

(2) It shall come into force at once.

2. Amendment of section 82, Act XLV of 1860.- In the Pakistan Penal Code (Act XL V of 1860). hereinafter referred to as the Penal Code, for the word "seven" the word "ten" shall be substituted.

3. Amendment Of section 83, Act XLV of 1860.-In the Penal Code, in section, 83, for the word "seven" the word "ten" shall be substituted and for the word "twelve" the word "fourteen" shall be substituted.

4. Insertion of new sections 292 A, 292 B and 292 C, Act XLV of 1860.-In the Penal Code. the following new sections shall be inserted, namely:-

"292 A. Exposure to seduction.-Whoever seduces a child by any means whatsoever with (In intent to involve him in any sexual activity or exposes him to obscene and sexually explicit material. document. a film, video or a computer generated image or attempts to do the aforementioned acts. shall be punished with imprisonment of either description for a term which shall not be less than one year and may extend upto seven years or with fine which shall not be less than one hundred thousand rupees and may extend upto five hundred thousand rupees, or with both.

292 B. Child pornography.-(1)Whoever takes, permits to be taken, with or without the consent or the child or with or without the consent of his parents or guardian, any photograph, film. video. picture or representation, portrait, or computer-generated image or picture, wh-ether made or produced by electronic. mechanical, or other means, of obscene or sexually explicit conduct. where---

(a) the production of such visual depiction involves the use of a minor boy or girl engaging in obscene or sexually explicit conduct;

- (b) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in obscene or sexually explicit conduct; or
- (c) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in obscene or sexually explicit conduct; is said to have committed an offence of child pornography.
- (2) The preparation, possession or distribution of any data stored on a computer disk or any other modern gadget, shall also be an offence under this section.

292 C. Punishment for child pornography.- Whoever commits an offence of child pornography shall be punished with imprisonment of either description for a term which shall not be less than two years and may extend up to seven years, or fine which shall not be less than two hundred thousand rupees and may extend up to seven hundred thousand rupees, or with both."

5. Insertion of new section 328 A, Act XL V of 1860.- In the Penal Code, after section 328. the following new section shall be inserted, namely:-

"328 A. Cruelty to a child.-Whoever willfully assaults, ill-treats, neglects, abandons or does an act of omission or commission, that results in or have potential to harm or injure the child by causing physical or psychological injury to him shall be punished with imprisonment of either description for a term which shall not be less than one year and may extend up to three years, or with fine which shall not be less than twenty-five thousand rupees and may extend up to fifty thousand rupees, or with both."

6. Insertion of new section 369 A, Act XLV of 1860.- In the Penal Code, after section 369), the following new section shall be inserted, namely:-

"369 A. Trafficking of human beings.-Whoever involves himself in human trafficking shall be punished with imprisonment for a term which shall not be less than five years and may extend up to seven years, or fine which shall not be less than five hundred thousand rupees and may, extend up to seven hundred thousand rupees, or with both.

Explanation.- The word "human trafficking", in this section, shall have the same meaning as is assigned to it in the Prevention and Control of Human Trafficking Ordinance, 2002(LIX of 2002)."

7. Insertion of new sections 377 A and 377 B, Act XLV of 1860.-In the Penal Code, after section 377, the following new sections shall be added, namely:-

"377 A. Sexual abuse.-Whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage in, or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without the consent where age of person is less than eighteen years, is said to commit the offence of sexual abuse.

377 B. Punishment.-Whoever commits the offence of sexual abuse shall be punished with imprisonment of either description for a term which may extend to seven years and liable to fine which shall not be less than five hundred thousand rupees or with both."

Sahil Vision:

Har Bacha Mehfooz..... Safe, secure and protected

Sahil Mission:

To develop a protected environment for children free from all forms of violence especially child sexual abuse.

Sahil is an organization which is working for the protection of children against all forms of abuse especially child sexual abuse. Sahil team of legal officers provide free legal aid to the victims of child sexual abuse in all four provinces.

Sahil also has a cadre of 158 referral lawyers from 33 districts. These lawyers are providing excellent legal services for victims.

After the publication of legal case studies in Innocent Lives 2012, Sahil is presenting its Innocent Lives 2 with the follow up of another 29 legal case studies.

Sahil Legal Services

Case studies have been taken from Sahil records from the year 2012-2015. During this period Sahil received 309 legal cases. Unfortunately 119 cases were compromised, 161 cases are pending and convictions was given in 29 cases.

Sahil legal officers in Head Office and Regional Offices districts dealt with 16 cases, where as Sahil referral lawyers dealt with 13 cases in other districts.

These cases have been registered under 12 different PPC Sections related to attempt(PPC Section-511), sodomy(PPC Section-377), rape(PPC Section-376), abduction(PPC Section-364) and murder(PPC Section-302). In most of these cases severe punishment of up to 25 years of imprisonment with heavy fines and even death sentences have been pronounced.

The request for free legal aid received by Sahil have been increasing over the years showing that families of victims are seeking justice.

Sahil once again presents some of the success stories of legal cases taken up by Sahil Legal Officers and Sahil referral lawyers .

All names in the case studies have been changed.

1- Sargodha case study

The case was registered in November, 2008

The judgment was announced in August, 2009

Madiha, aged 11 years old, was living with her father, Murad. One day Madiha's father sent her to buy groceries in the colony. She did not return for some time. The father, Murad along with two persons, Nabeel and Ghalib, went to search for her. They were informed by the shopkeeper that Madiha had left for home after buying groceries. They then began to search for her in the nearby sugar cane field where they found her lying dead.

Another witness, Mumtaz said that the abuser, Aboor, aged 25 years old, came to him and told him that he had taken Madiha to the field and raped her. When she became unconscious, Aboor strangled her with a cloth as he was fearful that she would reveal his identity to her parents when she regained consciousness. He requested Mumtaz to help him to reach a compromise with the victim's family.

The case was registered in November, 2008.

The case was taken up by Sahil Referral Lawyer

The Session Judge declared that Aboor is guilty of Qatal-E-Amd under PPC Section 302(b) and awarded him death penalty. Aboor is liable to pay a fine of 300,000/- rupees as compensation under Cr.P.C. Section 544-A. He is also guilty of Zina-Bil-Jabber under PPC Section 376. He was awarded imprisonment for 7 years along with a fine of 100,000/- rupees, in case of default of payment, a further 6 months imprisonment.

The judgment was announced in August, 2009.

This case was decided within 9 months.

2- Mandi Bahauddin case study

The case was registered in May 2007

The judgment was announced in February 2011

Shah, a 7 year old boy, went to a shop to purchase pencils at about 2 o'clock in the afternoon. On the way, a young man, 20 years old, forcibly picked him up and took him into his house. In the drawing room he started to sexually abuse him. He threatened him with murder if he said a word.

However, Shah started to scream. On hearing the hue and cry of the boy, two persons by knocked on the door. They forced opened the door and saw that the young man was committing sodomy with the boy. The abuser on seeing them ran away from the back door. The two persons now took the child home and informed his father off the incident.

The medical examination confirmed the abuse.

The case was registered in May 2007.

The case was taken up by Sahil Referral Lawyer.

The trial commenced in the court of Additional District and Session Judge, and the judgment announced was that the accused was convicted for 10 years under each PPC Section 377/367-A (sodomy and abduction) to run concurrently with a fine of 10,000/ rupees, in default of which a further imprisonment of 6 months will be served.

The judgment was announced in February 2011.

The case was decided after 3.9 years.

3- Chakwal case study

The case was registered in October 2010

The judgment was announced in June 2011

The manager of a hotel heard strange noises like that of a child crying in pain coming from a room. He knocked on the door but no one opened it. He called up the police and requested the Sub Inspector (S.I) to come. A police posse, which was patrolling nearby, arrived at the hotel. They knocked on the door of the room. After some time, the occupant Yasir opened the door. He was completely naked. The police entered the room and saw a small boy on the bed undressed, struggling for breath. Shockingly he died at that moment.

As the police were interrogating Yasir, a woman arrived by the name of Naz carrying a baby girl. She started shouting at the police saying that Yasir was her husband and she had given him permission to punish her son Sain as he was a problem for them! The victim Sain was from a previous marriage of Naz.

The police immediately took both Yasir and Naz into custody. The S.I became the complainant in the case.

The case was registered in October 2010.

Sahil referral lawyer took up the case.

The medical report and the autopsy both confirmed that the child had been sexually abused and tortured as he had bruises all over his body.

Charges was framed under PPC Section 302 and 377, as the crime involved murder, and

sodomy by the abuser Yasir. The accused Naz was charged for abetment under PPC Section 109.

The learned Additional Sessions Judge sentenced the abuser Yasir to death on both counts. However, Naz, the accused mother of the victim, was given the benefit of doubt as she was neither there at the time of the crime, nor was there any evidence of any other involvement of the crime, and she was the victim's real mother

The judgment was announced in June 2011.

The case was decided within 8 Months.

4- Fateh Jang case study

The case was registered in May, 2011

The judgment was announced in October, 2011

Naeem, a 6 year old boy, was on his way to a shop when a Molvi enticed him, by giving him two rupees, to come in to his house. The Molvi then began to sodomize Naeem who began to cry and shout. The Molvi left him with a warning him not to tell anyone.

Naeem still crying reached home and asked his mother to change his clothes. On doing so the mother found stains of sperm on his clothes and legs.

The medical examination confirmed the abuse.

The case was registered in May 2011.

The learned Judicial Magistrate convicted the abuser under

PPC 377/511 for attempt of sodomy. He was sentenced to 2 years imprisonment and rupees 10,000/- fine.

The judgment was announced in October, 2011.

The case was decided in 5 months

5- Narowal case study

The case was registered in April, 2008

The judgment was announced in November, 2011

Fasi, a 16 year old boy, was at home, in the evening of March 2008, when Adeeb came to his house and asked him to come along with him to meet Zohaib. They went to a high school ground where Zohaib was waiting. He served Adeeb a soft drink. After drinking it, Fasi fell

unconscious. Then Adeeb and Zohaib proceeded to sodomize him.

When Fasi did not return home, his father began to search for him. He found him unconscious at 3:00 am in the school ground and brought him home. The next morning Fasi gained full consciousness and told his father what had happened.

For the next two days the abusers tried to reach a compromise with the family of Fasi. However, there was no agreement.

The case was registered in April 2008.

The case was taken up by Sahil Referral Lawyer.

After 18 days of the incident, Fasi died due to a hemorrhagic fever which was not related to the incident as recorded in the medical report.

The learned court announced that both the abusers, Adeeb and Zohaib, were sentenced to 7 years rigorous imprisonment under PPC Section 377, and a fine of rupees 20,000/- each.

The judgment was announced in November, 2011.

The case was decided in 3.8 years.

6- Haripur case study

The case was registered in April, 2010

The judgment was announced in February, 2012

Haseen Bibi, a three and a half year old girl, went to school. Soon she came back home weeping and bleeding. She told her mother that when she was near the school, a man with a beard (that was her description), approached her and gave her rupees 20/-. She said that the man was the guard at the office.

The father, on hearing about this incident immediately went to the police station.

Then he took his daughter Haseen to the hospital. It was confirmed that she had been raped. The office identified by the girl was then visited. A blood stained sheet was found on the cot in the room. The suspect who worked there was hiding and was apprehended after some time. He confessed to the crime.

The case was registered in April 2010.

The case was taken up by Sahil referral lawyer.

The learned trial court honorable Additional District and Session judge announced the judgment in the open court. The accused was convicted under PPC Section 376 to 10 years rigorous imprisonment with a fine of 100,000/- rupees to be paid to the victim under Cr.P.C Section 544-A.

The judgment was announced in February, 2012.

This case was decided after 1.10 years.

7- Mandi Bahauddin case study

The case was registered in September, 2010

The judgment was announced in February, 2012

Umer, aged 12 years, a student of Class 6, went to the market to purchase some household articles. When Umer did not return home, his father went in search of him. The father was then informed by two persons that they had seen his son going with Rafi and Meer. After about three hours, Umer came back. His father asked him where he had been.

Umer then recounted the whole incident. On his way to the bazaar, he was forced by Rafi and Meer, to sit with them on a motorcycle. One sat behind him and put a gun to his back. They took him into a house in a new settlement, and both sexually abused him.

They threatened that they would kill him if he told anyone.

He then took Umer for a medical examination which proved the sexual abuse.

The case was registered in September, 2010.

Sahil Referral Lawyer took up the case.

After a complete investigation and challan submitted by the police in the court and the trial was completed, both the accused were proved guilty. The learned trial court honorable Judicial Magistrate announced the judgment in the open court. Both the accused were convicted under PPC Section 377 for 3 years rigorous imprisonment with a fine of 30,000 /- rupees, in default of which they would serve a further two month imprisonment.

The judgment was announced in February 2012.

This case took 1.5 years to be decided.

8- Islamabad case study

The case was registered in November, 2007

The judgment was announced in March, 2012

Abid, a 7 year old boy, was on his way to study when Karim, a young 17 year old boy, dragged Abid into the house. He threw him onto a sofa and then hitting him, forcefully pulled off his pants and tried to sodomize him. Abid screamed and shouted till Karim let him go and ran away.

The doctor confirmed bruise marks on the child.

This incident took place in November 2007, but the challan was not presented till November 2011.

The case was registered in November 2007.

Sahil Legal Officer took up the case.

In spite of political and social pressure, the victim's father pursued the case.

Under PPC Section 377/511 the learned trial court Judicial Magistrate decided this case. The learned trial court announced judgment in the open court, and the accused Karim was convicted for one year with 10,000 /- fine. In default of the fine, to undergo a further one month imprisonment

After the challan was presented, the decision was taken after another 4 months.

The judgment was announced in March 2012.

This case was decided after 4.3 years.

9- Khairpur case study

The case was registered in September, 2007

The judgment was announced in June, 2012

On the day of the incident, Mastur, a primary school teacher, along with his son Feroz, aged about 13 years, were sitting in the afternoon in their Autaq (formal sitting area of a rural house). Soon, five persons identified as Tagi, Faris, Haseeb, Shahid, and Lari armed with weapons arrived on two motorcycles. They walked in and pointed their pistols at the father and son, and demanded that they keep quiet.

One of the men, Tagi, who was estranged from his wife, said that he was angry with the father Mastur for helping his wife to get a divorce. Mastur denied having anything to do with the divorce case. This denial further angered Tagi. Then the 2 men, Tagi and Lari, forcibly dragged Feroz (Mastur's son), and made him sit on the motorcycle and drove off.

Mastur began to shout and many persons gathered around him. They got on to their motorcycles and chased the abductors. As they approached them, they saw that the men Lari and Faris holding Feroz, and Tagi fired at Feroz. Then all the men ran away. Feroz was hit in the stomach and he died on the spot.

The father, now the complainant, went to the police.

After 15 days the accused Tagi, Faris, and Lari were arrested along with the firearms used by them. The 2 other accused Haseeb and Shahid were absconding.

The case was registered in September, 2007.

The case was taken up by Sahil Legal Officer.

After investigation, the police submitted a challan in the court and after the complete trial, the learned trial court of Additional District and Session Judge announced the judgment in

the open court. The main accused Tagi was convicted with a death sentence under PPC Section 302(b), with a fine of 100,000/- rupees, in case of default of payment, a further one year imprisonment. The second accused Faris was convicted under PPC Section 302 (b) and Section 34, to 25 years life imprisonment with a fine of 100,000 /- rupees, in case of default of payment, a further one year imprisonment.

The third accused Lari was acquitted due to lack of evidence. The two other accused Haseeb and Shahid could not be caught and were declared proclaimed offenders.

The judgment was announced in June, 2012.

This case was decided within 3 Years and 9 months.

10- Bahawalpur case study

The case was registered in November, 2010

The judgment was announced by the Anti Terrorism Court in June, 2012

Anam, a 10 year old girl, was alone at home when Shan, 18 years of age, came to her house and asked her to come along with him to collect fodder for the goats. She went with him at about 1:30 pm in the afternoon.

Her father came home to find his daughter missing. He began to look for her. Two persons from the vicinity told him that they had seen Shan taking her to the fields. so they all went there to look for Anam. They heard her cries and found Shan raping her. He ran away on seeing them. Anam was unconscious and lying in a pool of blood.

The medical examination confirmed the abuse.

The case was registered in November 2010

The Anti Terrorism Court convicted the abuser Shan under PPC Section 376 to 25 years of rigorous imprisonment and rupees 50,000/- fine, and under ATC Section 7(1) 10 years of rigorous imprisonment with rupees 50,000/- fine concurrently

Appeal in high court, Bahawalpur

The High court decided this case in February 2015 and reduced the sentence to 10 years and rupees 20,000/- fine in consideration of the abusers young age and that there was no evidence of terrorism in the society.

The judgment was announced by the Anti Terrorism Court in June, 2012.

This case was decided in 4. 3 years.

11- Faisalabad case study

The case was registered in May 2010

The judgment was announced in September 2012

A 13 year old girl, Amal, went early in the morning to the fields to attend to the call of nature. A young boy Atif, under 18 years of age, caught her and tried to rape her. She began to scream and shout. Her father, her Aunt, and their guest arrived at the spot and witnessed the occurrence. They tried to catch the abuser but he escaped.

The case was registered in May 2010.

Sahil referral lawyer took up the case.

Although the case was registered under PPC Section 376, it was proved that it was only an attempt of rape. So the case was decided under PPC Section 511. After complete investigation and challan was submitted in the court, the accused was proved guilty by the Additional District and Session Judge. Atif was sentenced to 3 years rigorous imprisonment along with a fine of 10000/- rupees. As the accused was still a juvenile he was sent to the Borstal Jail.

The judgment was announced in September 2012.

The case was decided after 2.4 years.

12- Jaffarabad case study

The case was registered in June, 2011

The judgment was announced in November, 2012

Saad, a 16 year old boy, worked in a local club. After finishing his work he was on his way home when his friend Adnan met him and said that two other friends Aqib and Gul were calling him to meet up with them. When Saad and Adnan got there, the 3 of them forced him to undress threatening to beat him up. Aqib, Gul, and Adnan proceeded to sodomize Saad.

The incident was immediately reported by Saad.

The medical examination proved that sexual abuse had taken place.

The case was registered in June, 2011.

The case was taken up by Sahil Legal Officer.

After complete investigation and challan submitted by the police in the court of Judicial

Magistrate, the learned trial court announced judgment in the open court The three accused were convicted under PPC Section 377 for one year rigorous imprisonment and a fine of 5000/- rupees each. However, the accused Adnan was declared an absconder as he was not caught.

The judgment was announced in November, 2012.

This case was decided after 1.4 years.

13- Abbottabad case study

The case was registered in March, 2011

The judgment was announced in November, 2012

Mudasir, a 10 year old boy, had gone out to play. He came back home weeping and told his father that a person Kara caught him and took him forcibly to the fields where he put his hands on his mouth and committed sexual abuse with him and threatened him not to tell anyone about it. When Kara heard voices of people approaching from the road, he, ran away.

On hearing this, the victim's father immediately went to the police station to have the case registered and then took his son for a medical examination.

The case was registered in March, 2011.

The case was taken up by Sahil Legal Officer.

The Session Judge announced that the accused is convicted under PPC Section 377 for commission of sodomy and sentenced 5 years rigorous imprisonment along with a fine of 50,000/- rupees. In case of default of payment, the abuser would undergo a further 6 months imprisonment.

The judgment was announced in November, 2012.

This case was decided after 1.8 years.

14- Abbotabad case study

The case was registered in November, 2011

The judgment was announced in January, 2013

Sabir stated that in the Masjid he was asked to come in to a room to hand over the Sipara of the Quran. When he came inside the room, he was asked to remove his clothes by Yaver. When he refused to do so, Yaver tied him up, removed his clothes, sexually abused Sabir and

threatened him not to tell anyone about it.

Sabir went home and told his father.

The case was registered in November, 2011.

The case was taken up by Sahil Legal Officer .

The Sessions Judge announced under PPC Section 377 with imprisonment for life, and a fine of 50,000/- rupees, in case of default a further imprisonment of 6 months. He was ordered to pay compensation to the victim family of 200, 000/- rupees under Cr.P.C. Section 544-A.

The judgment was announced in January, 2013.

The case was decided in 1.2 years.

15- Kasur case study

The case was registered in May, 2008

The judgment was announced in November, 2013

Badar, aged 7 years old, had gone to see a Cycle Mela but did not come back until Isha prayer time. His brothers, Mudassir and Salahuddin went to search for him. On their way when they reached a sugarcane field, where they heard Badar shrieking. They saw that Aamir, a 17 year old, was sexually abusing him . Badar was smeared with blood. He was taken to a hospital for treatment.

The abuser pleaded for a compromise which was refused.

The case was registered in May, 2008.

The case was taken up by Sahil Referral Lawyer.

The Additional District and Session Judge” Juvenile Court” declared that the abuser is convicted under PPC Section 377 and 367 A.

Aamir was sentenced for 2 years imprisonment given only in consideration of the fact that he was a juvenile when he committed the offence. He was also fined 5000/- rupees.

The judgment was announced in November, 2013.

The case was decided after 5.6 years.

16- Rawalpindi case study

The case was registered in August, 2013

The judgment was announced in January, 2014

In October 2012, Irma, an 11- year old girl went to the house of Allah Ditta to give vegetables. When returning from there, a 65 year old person Bala, who took goats to graze at a nearby poultry farm, gave her 10 rupees and took her by the arm into a room at the farm. This incident was witnessed by her brother, Abu-Bakr, aged 13 years. He ran and told his mother about the incident. The mother came running to the spot to find the abuser Bala raping her daughter. He saw them and fled. The mother took Irma to the hospital to be examined. The lady doctor asked them to go and also get a DNA test done. However, the mother could not understand this request, and no case was registered. Her daughter began suffering from other diseases.

In the meantime, the abuser repeatedly requested the victim family to compromise with him.

The victim Irma was medically reexamined. It was confirmed that she had been sexually abused.

The case was registered in August, 2013.

The case was taken up by Sahil Referral Lawyer.

The Session Court sentenced the accused under PPC Section 376 for 14 years imprisonment and under PPC Section 364-A for kidnapping for 8 years imprisonment. He was also liable to pay a fine of 200,000/- rupees to the victim.

The judgment was announced in January, 2014.

This case was decided within 5 months.

17- Nankana Sahib case study

The case was registered in April, 2013

The judgment was announced in March, 2014

Areiba, an 8 year old girl, was a student of Class 2 in a government primary school for girls. One day she went to school but did not return home. Her father, along with a friend, went to school but did not return home. Her father, along with a friend, went to the school to find her. As they reached the school they heard cries from behind the school wall where they found that the abuser was raping Areiba.. They scaled over the wall but the accused fired at them from his pistol. He threatened to kill them if they tried to come near him, and he fled. The victim, Areiba, was smeared with blood. She related the incident in the court of Additional

District and Session Judge. The abuser had enticed her to come with him as he said that he wanted to give her some fruit. Instead he began to sexually abuse her.

The case was registered in April 2013.

Sahil Referral Lawyer took up the case.

After complete evidence, the learned trial court Additional District and Session Judge under PPC Section 364-376, announced that the accused was sentenced to double imprisonment for life and 100,000/- rupees fine, in default of which he would serve a further imprisonment of six months.

The judgment was announced in March, 2014.

The case was decided in 11 months.

Appeal in Lahore High Court.

Sahil legal officer followed up the appeal in the Lahore High Court. The appeal was dismissed and the conviction was maintained.

18- Dera Allah Yar case study

The case was registered in January, 2013

The judgment was announced in March, 2014

Khurram along with Daud, Mumtaz and Abu Bakr were on police patrol when they heard noises coming from a barber shop. When they reached there, they saw two men, Saloo and Abid sexually abusing the boys Atif, a 15 year old, and Rashid, a 17 year old. The abusers were caught and with the victims they were taken to the DHQ Hospital. All four were medically examined and it was proved that the sexual abuse had taken place. The victims also stated that they were threatened before being abused.

The case was registered in January, 2013.

This case was taken up by Sahil Referral Lawyer

The Judicial Magistrate announced that the accused Abid and Saloo are guilty under PPC Section 377, and 34, and are sentenced to rigorous imprisonment for 2 years. They are directed to pay a fine of 10,000/- rupees, each. In case of default, they have to undergo a further imprisonment for 3 months.

The judgment was announced in March, 2014.

The case was decided in 1.2 years

19- Islamabad case study

The case was registered in June, 2009

The judgment was announced in October, 2014

Zoobi, a 5 year old, went with her parents to the Darbar of Bari Imam. Her father bought her ice cream and then sent her to the ladies section to join her mother. They were regular visitors of the shrine and spent the whole night there. In the morning, when they were leaving for home, the mother asked husband about the daughter. He told her that he sent the daughter back to her that night. The parents began to search for her but she was nowhere to be found. An announcement from the mosque stated that a body of a little girl had been found near the colony. The father went and identified that it was her daughter. Zoobi's clothes were stained with blood. When the police began to investigate, 5 persons at the Darbar identified that a man called Shahi was seen with the victim buying her chips and toffees. He was a follower of the saint and lived at the darbar.

The father, a taxi driver, approached Sahil to take up the case.

The case was registered in December, 2011.

The case was taken up by Sahil Legal Officer.

The learned trial court announced that the accused Shahi is guilty of committing Qatl-E-Amd and has been sentenced to death. He is also liable to pay 200,000 rupees to the legal heirs of the deceased as compensation. Failing this, he would undergo imprisonment for 6 months. The accused is also sentenced to imprisonment for 20 years and is liable to pay a fine of 1 Lakh rupees. In case of default of payment, he shall undergo a further 6 months imprisonment.

The judgment was announced in October, 2014.

This case was decided after 5.4 years.

The accused has filed an appeal which is still pending.

Prologue

The case was on when a year later, Zoobi's mother committed suicide. The father was extremely upset as he did not want to leave the house and leave his children home alone. He then sold his taxi. When he came to Sahil he told Sahil legal officer that his younger children were going hungry and he had no income left now. As it happened, a group of students from Bahria College came to Sahil looking for a family to support by providing a means of income as a part of their project. The students went to his house. Then they bought him a cart along with products for sale which enabled him to earn for his children.

20- Rawalpindi case study

The case was registered in December, 2013

The judgment was announced in October, 2014

Ameer's niece Warda, aged 8 years, went to Najam's shop to get sweets. She did not return back for some time. Ameer and his brother Qasim became worried and went to the sweet shop to look for her. They heard the crying out of a girl in a house next to the shop. Qasim saw Warda and Najam naked in the room. Najam ran away immediately. Warda was crying. She had been sexually abused. Medical examination confirmed this.

The case was registered in December, 2013.

The case was taken up by Sahil Legal Consultant

District and Session Judge announced his sentence of 10 years imprisonment under section 364-A PPC along with 50,000 rupees fine.

The judgment was announced in October, 2014.

This case was decided in 10 months.

21- Islamabad case study

The case was registered in June, 2012

The judgment was announced in December, 2014

Asifa, a 10 year old girl, was standing outside her house during load shedding time at about 8.00 pm. Her father soon realized that his daughter was missing. He searched in the neighborhood for her for about 45 minutes but in vain.

Then he received a phone call from an unknown person who informed him that his daughter had been kidnapped and was in a garden weeping and crying. Some persons had found her and had also apprehended the accused. The father rushed to the place and found his daughter. The accused was also there. He had been caught when he was attempting to commit sexual abuse. The father, and the witnesses who had caught the accused red handed, took him to the police station.

The case was registered in June, 2012.

Sahil Senior Legal Officer took up the case.

After a complete investigation, the challan was submitted. The honorable Session Court Judge, after complete evidence in the trial court, announced the judgment in the open court.

The accused was convicted under PPC Section 376/511 for one year rigorous imprisonment and 10,000/- rupees fine in default of which a further 4 months of imprisonment. However the accused had already spent the required 2 years in jail!

The judgment was announced in December, 2014.

The case was decided after 2.6 years.

22- Abbottabad case study

The case was registered in April, 2013.

The judgment was announced in December, 2014.

Omar's father had gone for work. When he came home, he saw blood stains on the clothes of Omar, his 6 year old son. He asked Omar what had happened. His son told him that his mother had sent him to buy sugar. On his way back home, Adeeb, aged 15 years old, took him and kept both of his hands on his mouth and did 'Ziadathi'. (sexually abused) with him.

The case was registered in April, 2013.

The case was taken up by a Sahil Legal Officer.

The Special Judge under Juvenile Justice announced the sentenced of 3 years imprisonment and a fine of 20,000/- rupees under PPC Section 377.

The court took a lenient view since Adeeb was 15 years of age and therefore a juvenile.

The judgment was announced in December, 2014.

The case was decided after 1.8 years.

23- Abbotabad case study

The case was registered in February, 2011

The judgment was announced in February, 2015

Zaid, a 7 year old boy, was playing on the roof of his house when Uri, aged 16 years, took him to his house on the pretext of giving him money. The house was empty. Here Uri took off his clothes, and tried to sexually abuse Zaid by threatening him that if he said a word he would kill him. Zaid raised a hue and cry and screamed. This was heard by Haris, a neighbor. Haris ran from there and went crying to his mother. On being asked as to why he was crying, he told his mother that Uri was abusing Zaid. His mother called Zaid's mother and told her about

what had happened, who then telephoned Zaid's father and told him about it. He lodged a complaint.

The case was registered in February, 2011.

The case was taken up by Sahil Legal Officer

The medical report did not confirm sodomy. Therefore, the case was considered as an attempt of sodomy.

The Additional Session Judge announced that Uri was convicted for 3 years imprisonment and a fine of 50,000/- rupees under PPC Section 377. In case of failure of payment, he would serve another 3 months imprisonment. The accused, Uri, who was on bail was arrested and sent to jail.

The judgment was announced in February, 2015.

The case was decided after 4 years.

24- Bahawalpur case study

The case was registered in July, 2014

The judgment was announced in February, 2015

Hassan, aged 15 years old, came out of the mosque after saying his prayers, when 4 people on motorcycles came and abducted him at gunpoint. Of these four, one person Wasi, was recognized. Three people had witnessed the abduction and went to search for Hassan. When they reached the village, they saw Wasi and another abuser sodomizing Hassan while the other two were standing guard outside the room. The ages of the abductors ranged from 20 to 25 years.

A medical report confirmed the abuse

The case was registered in July, 2014.

The case was taken up by Sahil Referral Lawyer

The Additional District and Session Judge announced the judgment and the main accused Wasi was convicted for 14 years imprisonment under PPC Section 367- A with a fine of 100,000/- rupees and in case of default, 6 months further imprisonment, and 7 years rigorous imprisonment under PPC Section 377 along with a fine of 20,000/- rupees, and in default of payment, a further 3 months imprisonment. The other two accused were convicted under PPC Section 377 for 7 years rigorous imprisonment along with a fine of 20,000/- rupees and in case of default, a further 3 months imprisonment. The fourth person was acquitted on benefit of doubt.

The judgment was announced in February, 2015.

The case was decided in 7 months.

25- Islamabad case study

The case was registered in December, 2011

The judgment was announced in March, 2015

Saira's mother, Jehan, who was staying at her brother Ravi's house, went to the market along with her sister in law, younger sister, Saira's brother, and aunt. She left her daughters Saira, aged 12 years, Alia, aged 3 months old, son Usman, aged 6 years old, a neighbor's child, and her other brother Hamid at the house of Ravi. After a while Hamid and the neighbor's child left.

Then Ravi gave Saira's brother money to go and buy himself something from the shop. Saira was playing with her younger sister outside the house when her uncle Ravi, called her in. When she asked why, he dragged her inside. He then threw her younger sister, Alia, on the bed pointing a knife at her and threatening to kill her if Saira spoke a word. He removed his own clothes and Saira's, and committed sexual abuse with her.

In the meantime, Jehan's brother Hamid went to the market to tell her that her little girl was crying and she should go home. On reaching there she found Saira bleeding and in a semi unconscious state on the bed. Saira then told her that uncle Ravi had sexually abused her. He had run away.

The mother, Jehan sent for her husband and went to the police station.

The case was registered in December, 2011.

The case was taken up by Sahil Legal Officer.

Sahil wrote to the Chairman Senate Human Rights Committee requesting the arrest of the accused who was absconding. He was arrested.

Saira was provided counseling at Sahil for 8 months before she was ready to testify.

In May 2013, the complainant Jehan, told the court that she had entered into a compromise with her brother, the accused Ravi, and had forgiven him. Her defense counsel then applied for bail for the accused. This was rejected by both the Session Court, and the High Court stating that "the offence is against society"

The Additional Session Judge announced that the accused, Ravi was convicted of rape under PPC Section 376. The judge stated that the accused was to serve 25 years rigorous imprisonment. He was already in custody and was sent to Central Jail, Rawalpindi.

The judgment was announced in March, 2015.

This case was decided after 3.3 years.

26- Abbotabad case study

The case was registered in May, 2014

The judgment was announced in March, 2015

Parveen, an 18 year old, after taking the exams, left college with her friend Amara. As they walked home, they reached a spot where a car was parked. Her friend asked her to get into the car but she refused. However, Amara managed to persuade her to get in. Two persons, a religious teacher Najeeb, 28 years old, and another person Hadi, 20 years old, were in the car. They locked the car and drove to another area and stopped. Here, the third accused, Fasi, 22 years old, came out of the boot of the car and got into the back seat. Then Najeeb who was driving, handed over the car to Hadi and sent Fasi to the front seat. Najeeb then sexually abused Parveen. After that, Najeeb went back to the driver's seat, and Fasi sat at the back and raped Parveen. The accused finally dropped them back in their township threatening them with dire consequences if they told anyone. They also took away Amara's phone.

When Parveen came back home she told everything to her uncle.

The medical report confirmed the abuse.

The case was registered in May, 2014.

The case was taken up by Sahil Legal Officer

The learned trial court announced that the abusers Najeeb, and, Fasi were both convicted for 14 years rigorous imprisonment under PPC Section 376 , and the third accused, Hadi was convicted for 10 years imprisonment. The friend, Amara was acquitted on the benefit of doubt.

The judgment was announced in March, 2015.

This case was decided in 10 months.

27- Islamabad case study

The case was registered in July, 2011

The judgment was announced in April, 2015

Hina, aged 12 years, went with her cousin, Abid, aged 28 years old to the market to buy sweets. When they reached there, Abid did not buy her anything but said that there was a better place for shopping further on. Then he took her to a house. He scaled over the wall

with her since the gate was locked. He took Hina to a room where he undressed himself and her. He slapped her and hit her with a belt falsely accusing her of breaking his son's arm. He also threatened to kill her with a hatchet if she told anyone. He raped her covering her mouth with his hand and a pillow. This continued for 3 hours. She bled and was in severe pain. He then took her and dropped her off near her house. She told her sister everything when she reached home. Her sister called the neighbor for help and the neighbors told the Qari Saab about the incident who informed the District Nazim of Mosques who became the complainant. The complainant informed the police. The victim, Hina, was brought to the hospital for medical treatment.

The case was registered in July, 2011.

The case was taken up by a Sahil Legal Officer .

Hina was referred for counseling to Sahil Jeet Healing Centre (JHC).

The Additional District and Session Judge announced that Abid was convicted under PPC Section 376 and given death sentence, along with a fine of 100,000/- rupees in default of which he will undergo a further 6 months imprisonment in jail.

The judgment was announced in April, 2015.

The case was decided after 3.9 years.

28- Rawalpindi case study

The case was registered in September, 2013

The judgment was announced in June, 2015

Mona, a 7 year old girl, was kidnapped by Zak, aged 25 years. According to the girl's father, he was sitting at a shop when his daughter, Mona and nephew, Abu-Bakr, came to him to get some things for the house. After they left, he heard Abu-Bakr shouting. He, along with other shopkeepers, ran to find out what had happened. Abu Bakr told him that Zak gave him 50 rupees to bring cigarettes for him. After he left, Zak, picked up Mona and ran towards the jungle. The victim's father now started searching for his daughter. Two persons, who were coming from the village, told them that they had been told on their mobile phones that the accused Zak had left Mona near the graveyard and had run away. They found the girl there. She was terrified and said that she had been carried away by Zak. who had attempted to rape her.

The case was registered in September, 2013.

The case was taken up by Sahil Legal Consultant.

The learned trial court announced that the judgment in the open court. The accused, Zak, was convicted under PPC Section 363/506/511 for 3 years including 6 months imprisonment in default of a fine of 30,000/- rupees.

The judgment was announced in June, 2015.

This case was decided after 2.9 years.

29- Abbotabad case study

The case was registered in September, 2012.

The judgment was announced in December, 2015.

There were two marriage ceremonies in the village which were being attended by the families of Shaad and Unsaar , both aged between 7 and 8 years old. One of the evenings during the wedding, the boys were missing. The fathers of the boys started searching for them in all the relative's houses but could not find them.

Early in the morning Unsaar came home. His clothes were stained with blood. He told the family that while they were playing with other boys, a man came to them and asked him and Shaad to accompany him so that he can buy bubble gums, candies, and kites for them. So they both went along. The man took them to a nearby field. There he threatened them with death if they dared to say anything. Unsaar then said that after sexually abusing him, the abuser had abducted Shaad and taken him to Haripur.

The family of Shaad immediately left for Haripur. There, the police who had already been informed, had caught the culprit at the bus stand and recovered the boy.

The case was registered in September, 2012. Sahil Legal Officer pleaded this case.

The learned trial court Additional District and Session judge of Abbotabad announced judgment in the open court. The abuser was convicted on 3 counts under PPC Section 364-A for abduction, he was to undergo rigorous imprisonment for 7 years and a fine of 30,000/- rupees The accused was also convicted for the commission of unnatural offence under PPC Section 377, and sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of 50,000/-rupees. Moreover, the accused was also convicted under PPC Section 342 for illegal confinement of minor, and sentenced to 6 month rigorous imprisonment, and a fine of 10, 000/- rupees. Altogether the abuser had been sentenced to 12. 6 years of rigorous imprisonment. This case was decided after 3.3 years

P L J 2000 Cr. C. (Lahore) 913 (DB)
(Multan Bench Multan)
Present: TASSADUQ HUSSAIN JILANI AND
Nasim Sikandar, JJ
STATE-Petitioner
Versus
ABDUL MALIK alias MALKOO-Respondent
Criminal Revision No. 16/2000, allowed on 3.2.2000
Offence of Zina (Enforcement Of Haddood) Ordinance, 1979 (VIII of 1979)

S. 10 Offence of raping girl 6/7 years of age was an act which was cruel, wicked and offensive, therefore the same would fall within the ambit of expression "heinous offence" used in preamble of anti-Terrorism Act, 1997, calling for extra-ordinary remedy in law---such offence would thus, constitute terrorist act-Rape with child was thus, Zina-bil-Jabar in aggravated form of child molestation and person who was proved to have committed such offence would be punished in terms of punishment provided by offence of Zina (Enforcement Of Haddood) Ordinance 1979 Alleged offence of child rape would thus, be tried by special court constituted under Anti-Terrorist Act, 1997.

However, we would like to quote the survey report of an NGO from Islamabad, published in Daily Dawn dated 13th of Feb, 2000 which has not been changed by the Government. As per the said report about one thousand children were abused in the year, 1999. The afore-referred report is being reproduced below.

Islamabad, Feb, 12 A spokes person for Sahil, an NGO working against child abuse, told a press conference here on Friday that during 1999 as many as 945 children were sexually abused by 1,629 men.

Sahil put out these figures by monitoring media for cases of child sexual abuse. The NGO monitors 11 Urdu and English Newspapers regularly. The spokes person for Sahil said that out of 945 reported cases, 56 percent pertained to girls and 44 percent to boys. He said that these 945 cases were just the tip of the iceberg. Sahil maintains that the majority of the cases go unreported due to social tendencies of denial and silence.

According to the statistics of the Sahil, out of 1,629 abusers, 1219 were acquaintances. About murder after sexual assault, the NGO said 15 girls were gang raped and 15 boys were murdered. It said that 169 girls were gang raped and 117 male children were sodomized.

Sahil's data shows that 21 cases of incest were reported during Jan-Dec 1999. This is a confirmation for those who deny that incest occurs in Pakistan. According to Sahil's figures. During this period, the abusers have targeted a majority of boys between the ages of 5-10 years and 10-15 years.

The foregoing report further highlights the gravity of the issue. This judgment and the reasons given above shall be read along with the short order dated 3.2.2000 vide this criminal Revision was allowed, the order passed by the special court-II Multan constituted under the Anti-Terrorism Act, 1997 was set aside and the case registered vide FIR NO.404 dated 6.9.1999 U/S. 10 offences of Zina (Enforcement Of Haddood) Ordinance VII of 1979 PS Basti Malook Multan was directed to be tried.

(Same case law was reported in PLD (Pakistan Law Digest) 2000 Lahore page 449)

Salman Akram Raja v. Government of Punjab
(Iftikhar Muhammad Chaudhry,CJ)

2013 SCMR 203

[Supreme court of Pakistan]

**Present: Iftikhar Muhammad Chaudhry, CJ.,
Jawwad S.Khawaja and Khilji Arif Hussain, JJ**

SALMAN AKRAM RAJA and another.....Petitioners
versus
GOVERNMENT OF PUNJAB through Chief Secretary and
others----Respondents
Constitution petition No.38 of 2012, decided on 2nd October, 2012.

(Petition under Article 184(3) of the Constitution of Islamic Republic of Pakistan, 1973).

Penal Code (XLV of 1860)

---Ss.375 & 376---Constitution of Pakistan, Art.184(3)---Constitutional petition under Art. 184(3) of the Constitution challenging the legality of a compromise/out-of-court settlement between a gang-rape victim and the accused rapists---Supreme Court observed that rape was an offence against the whole society and case was registered in the name of the State, therefore where complaint party did not come forward to pursue the case and courts should also take into consideration such aspects of the case while extending benefit to the accused---**Supreme Court, however, directed that every police station that received rape complaints should involve reputable civil society organizations for the purpose of legal aid and counseling; that a list of such organizations might be provided by bodies such as the National Commission on the Status of Women; that on the receipt of information regarding commission of rape, Investigation Officer/Station House Officer (S.H.O) should inform such organizations at the earliest; that administration of DNA tests and preservations of DNA evidence should be made mandatory in rape cases, that as soon as the victim was composed , her statement should be recorded under S. 164, Cr.P.C, preferably by a female magistrate , that trails of rape should be conducted in cameras and after regular court hours; that during a rape trial, screen or other arrangements should be made so that the victims and vulnerable witnesses did not have to face the accused persons, and that evidence of rape victims should be recorded, in appropriate cases, through video conferencing, so that the victims, particularly juvenile victims, did not have to be present in court---Constitutional petition was disposed of with the same directions. [pp. 215, 218] J & K**

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