

## SC upholds LHC verdict in Mukhtaran Mai case

From page 1

serving his sentence as awarded to him by the learned high court, the benefit of Section 382 of Criminal Procedure Code extended to him", the court said in its order.

Renowned lawyer Aitzaz Ahsan appeared for Mukhtaran Mai, whereas Malik Muhammad Saleem appeared on behalf of the accused.

"In any society, much less rural or tribal, would brothers falsely scandalise their unmarried sister to save their own skin from a criminal charge of sodomy. The facts of the present case show that the accused party did not need any protection as according to the testimony of Abdul Shakoor. Because of fear and shame he had refrained from reporting the sodomy to the police. Considering the complainant, being a weaker party, the accused did not had to worry about any criminal charge of sodomy", the court further observed.

The appeals were filed by Mukhtaran Mai against the order of Multan bench of the Lahore High Court commuting the sentence of one accused and acquitting the abettors involved in gang-raping Mukhtar Mai on June 22, 2002, on the orders of a punchayat (village council) convened by the influential Mastoi tribe in the village of Meerwala in southern Punjab. The incident was widely condemned in the country and abroad.

In March 2005, the Federal Shariat Court (FSC) had suspended the LHC's verdict in Mai's case on the grounds that the high court had no jurisdiction to hear appeals under Hudood laws. The controversy was settled after the Supreme Court had taken the matter into its own hands.

The punchayat had been called to seek punishment for Shakoor, 12-year-old brother of Mukhtar Mai. It was suggested that Shakoor should marry the girl with whom he was accused of having an affair and Mukhtar Mai be married to a man of the Mastoi tribe. But the Mastois rejected it and insisted that the offence of adultery should be settled with adultery. Mukhtar Mai was called by the punchayat (council) to apologise for the conduct of her brother who had already been sodomised by the Mastois. She was allegedly dragged to a nearby hut and raped by four men.

A case was registered against 14 accused under sections 109 and 149 of the Pakistan Penal Code, the Anti-Terrorism Act (7C and 21-1) and the Hudood Ordinance (10-4 and 11). Four of them were charged with raping Mai and the rest for abetting the crime.

In August 2002, the ATC sentenced six men to death (four for raping Mai and two for being part of the jirga). The remaining eight were acquitted. Mukhtar Mai filed separate appeals in the LHC's Multan bench against the acquittal of eight men. The court acquitted five men and commuted the death sentence of the sixth to life imprisonment. Later, the Supreme Court suspended the LHC order till a final decision.

Meanwhile, the National Commission on the Status of Women and members of Insani Huqooq Ittehad including PODA, Mehergarh, Aurat Foundation, Rozan, Sungi, Bedari, Ethno Media, Pattan and SPO convened an emergency meeting to express deep shock and disappointment over the verdict given by the superior court in Mai's gang rape case.

"Although the judgment did prove that Mukhtar was raped because one accused was given life imprisonment while others were acquitted. We are surprised to see why only one accused was punished and others were acquitted on a charge of gang rape."

The commission and members of civil society felt this was the reflection of a biased and inefficient criminal justice system. This case has been a classic example of how the facts were distorted and documentation of the evidence was tampered at all levels. The group expressed concern over the long delays to dispense justice. It took more than nine years to come up with this decision.

Although the court could have its own reasons, but it is feared that this decision might further strengthen anti-women parallel legal and judicial systems and mechanisms in the country. "We feel the criminal justice system too is not pro-women and is patriarchal in nature. Impunity is the order of the day", they added.

In cases of complaints women victims are burdened to provide series of evidences which is not possible for them. It is the responsibility of the police to do the investigation and come up with the requisite evidence, they said. Currently, methods of recording evidence by police are biased against women, and that is one reason they do not get justice from the courts, they added.

There is also a need to look at women's representation in all the systems dealing with matters of crimes and justice. Women's lack of proportionate representation in lower and upper judiciary is paving way for verdicts against women victims.

Today's judgment has shaken the confidence and sense of se-

curity of women of Pakistan to stand up for their rights. It reflects a faulty investigation of police and the loopholes have been left intentionally. The outcome of this case discourages survivors of rape and gang rape to report. "However, we are proud of Mukhtar Mai, who stood bravely against all intimidation and harassment and has refused to buckle under life threats. She has given a message of courage and hope to all women victims of our country. We consider her a role model for women of Pakistan."

Meanwhile, the students of Gender Studies Department, Quaid-i-Azam University, took out a protest rally against the Supreme Court verdict. They marched from National Press Club towards the Parliament House where the heavily deployed police contingent stopped them and did not allow them to protest in front of the Supreme Court. The students and faculty members carrying placards shouted slogans against the verdict - "Andha Qanoon, Na-manzoor, Na-manzoor", "We Want Justice, Mukhtar Mai Wants Justice."

Chairperson of the department, Dr Farzana Bari, said now women of this country would feel insecure. She said after a long wait the Supreme Court had announced its verdict which had disappointed the women of this country.

Agencies add: Mai expressed her disappointment over the Supreme Court verdict while many human rights organisations also expressed their discontent. Mai said her life was in danger after the Supreme Court acquitted 13 men accused of the crime. Mai was attacked on the orders of a village council in Meerwala locality of Muzaffar-

garh in 2002 as a punishment because her brother - who was 12 at the time - was judged to have offended the honour of a powerful clan by allegedly having an affair with one of its women.

Mai was an illiterate villager at the time but she defied taboos and shot to global fame by speaking out about her ordeal and taking her attackers to court.

Mai had accused 14 men of being involved in raping her and in 2002, an anti-terrorism court in Dera Ghazi Khan sentenced six of them to death while acquitting the others citing a lack of evidence. But in an appeal, the Lahore High Court not only upheld the eight acquittals but also overturned five of the six convictions. The death penalty for the sixth man, Abdul Khaliq, was commuted to life in prison.

Mai appealed to the Supreme Court in 2005 but it rejected her appeal on Thursday, said Gohar Ali Shah, a lawyer for Mai.

"I'm disappointed. Why was I made to wait for five years if this decision was to be given?" a sobbing Mai told Reuters by telephone from her village in Punjab shortly after the court announced the decision.

"The accused can kill me and my family when they return home," Mai said.

Her courage in defying centuries-old rural customs of repressing women won her human rights awards and made her a role model for many women in Pakistan.

She is running a school for girls in her village with donations from the government and supporters at home and abroad.

Mai said she would neither flee her village nor the country. "Life and death are in the hands of Allah ... I will not shut my school and other projects," she said.