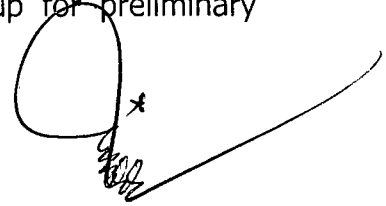


25.04.2022

None for the appellant present.

As is evident from the previous order sheets, learned counsel for the appellant has been requesting for adjournment. Last opportunity is granted to argue the case. Notices be issued to the appellant and his counsel. To come up for preliminary hearing on 14.07.2022 before S.B.

5/11/22
14-7-22
R
P.D.



(MIAN MUHAMMAD)
MEMBER(E)

14.07.2022

Mr. Arbab Saiful Kamal, Advocate for the appellant present and requested for adjournment on the ground that he has not gone through the record. Another last opportunity is granted. To come up for preliminary hearing before the S.B on 13.09.2022.

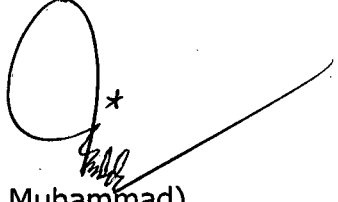


(MIAN MUHAMMAD)
MEMBER (E)

16.11.2021

Miss. Uzma Syed, Advocate Junior of learned counsel for the appellant present.

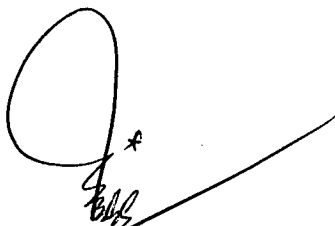
Former requests for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 26.01.2022 before S.B.


(Mian Muhammad)
Member(E)

26.01.2022

Counsel for the appellant present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 28.03.2022 before S.B.


(Mian Muhammad)
Member(E)

28.03.2022

Counsel for the appellant present.

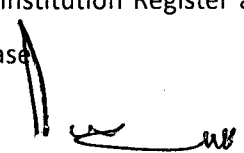

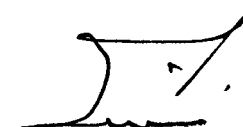
Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 25.04.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 6872 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/07/2021	<p>The appeal of Mr. Hayatullah resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/08/2021</u></p> <p> CHAIRMAN</p>
	26.08.2021	<p>Ms. Uzma Syed, Advocate, as proxy for learned counsel for the appellant present and sought adjournment on the ground that learned counsel for the appellant is out of station. Adjourned. To come up for preliminary hearing before the S.B on 16.11.2021.</p> <p> (SALAH-UD-DIN) MEMBER (J)</p>

The appeal of Mr. Hayatullah son of Mirza Ayub Khan Ex-Constable No.681 Police Line Bannu received today i.e. on 25.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Appeal has not been flagged/marked with annexures' marks.
- 3- Annexures of the appeal may be attested.
- 4- Memorandum of the appeal may be got signed by the appellant.
- 5- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 6- Annexure-E of the appeal is incomplete which may be completed.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1091 /S.T,

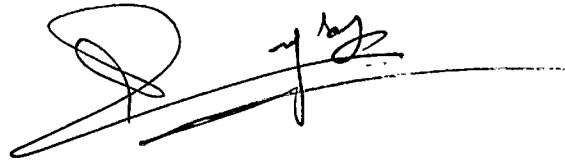
Dt. 28/06 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,

Re-submitted after
completion.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWARS.A. No. ⁶⁸⁷² /2021

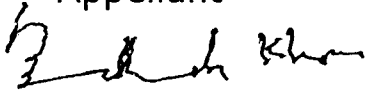
Hayat Ullah

versus

DPO & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-5
2.	FIR No. 316 dated 16-07-2013 theft of Car	"A"	6
3.	FIR No. 283 dated 07-08-2013 theft of Car	"B"	7-8
4.	FIR No. 338 dated 19-11-2013, fake vehicle	"C"	9-10
5.	Dismissal order dated 31-12-2013	"D"	11
6.	Identification parade, 03-03-2015	"E"	12-13
7.	Return of vehicle on superdari dated 19-05-2015	"F"	14-18
8.	Judgment of ATC Kohat acquitting accused dated 16-09-2015	"G"	19-41
9.	Judgment of conviction dated 07-03-2016	"H"	42-48
10.	Copy of appeal before HC Bannu Bench dated 11-03-2016	"I"	49-52
11.	Representation	"J"	53-55
12.	Enquiry Report	"K"	56
13.	Reinstatement order dated 29-03-16	"L"	57
14.	Application to RPO dated 30-06-16	"M"	58
15.	Filing of representation, 28-07-2016	"N"	59
16.	Judgment of Acquittal of HC, 21-12-16	"O"	60-68
17.	W.P. 1202/20 dated 07-11-2020	"P"	69-73
18.	Judgment dated 14-12-2020	"Q"	74-77

Appellant
Through 
Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0311-9266609

Dated 24-06-2021

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2021

Hayat Ullah S/O Mirza Ayub Khan,
R/o Painsda Khel, Domel Bannu,
EX Constable No. 681,
Police Line Bannu Appellant

Versus

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 6662

Dated 25/6/2021

1. District Police Officer,
Lakki Bannu.
2. Regional Police Officer,
Bannu Region Bannu.
3. Provincial Police Officer, ...
KP, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB No. 1453 / EC DATED 31-12-2013 OF
R. NO. 01 WHEREBY APPELLANT WAS DISMISSED
FROM SERVICE OR OFFICE ORDER NO. 2101 / EC
DATED 01-08-2016 WHEREBY REPRESENTATION OF
APPELLANT WAS REJECTED FOR NO LEGAL REASON:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Filed to-day

Registrar,

Respectfully Sheweth:

1. That on 16-07-2013, complainant Muhammad Shahid Shafiq, Judge Banking Court Islamabad made report in Police Station Industrial Area Islamabad u/s 381-A, regarding theft of car GLI Corolla Number GS 602. No one was charged for commission of offence in the FIR No. 316 dated 16-07-2013 (Copy as annex "A")
2. That FIR No. 283 dated 07-08-2013 was registered u/s 365-A / 109 PPC, PS Yaqoob Khan Karak against unknown person regarding the theft of the aforesaid car GLI Corolla Number GS 602. (Copy as annex "B")

3. That on 19-11-2013, complainant Nabi Shah Khan SHO lodged FIR No. 338 against Akhya Jan S/O Bahader Khan R/O Painsa Khel Domel Bannu u/s 420, 468, 471, 472, 474 PPC regarding interception of car being bogus. Appellant had booked the said car to the Police Station, Takht Nasrati as he was nominated accused in the FIR. Appellant was called for as the said accused was arrested in Islamabad in connection with the stolen car. (Copy as annex "C")
4. That Shahidullah and Hayatullah sons of Mir Kalam R/O Takht Nasrati Karak were named as accused in FIR of Islamabad but appellant S/O Mirza Ayub R/O Painsa Khel Bannu was also involved as accused due to uncertainty.
5. That no Charge Sheet or Statement of Allegation was served upon appellant, yet on 31-12-2013, he was dismissed from service by R. No. 01 on allegation of involvement in anti-social activities. (Copy as annex "D")
6. That on 03-03-2015, Civil Judge-V / MOD Kohat held identification parade in District Jail Kohat for identification of appellant as well as co-accused Abdul Haleem Gul for abduction of Muhammad Shah Khalid abductee who identified twice Abdul Haleem Gul as accused but never identified appellant. (Copy as annex "E")
7. That on 19-05-2015, Muhammad Ajmal Khan filed application before the court for return of motorcar number LEF-4242 which was returned on superdari. (Copy as annex "F")
8. That on 16-09-2015, judgment Anti Terrorism Court, Kohat Division Kohat acquitted all the seven accused in FIR No. 283 dated 07-08-2013 PS Yaqoob Khan Shaheed District Karak. Name of appellant appears at S. No. 05 in the panel of accused but here it is to state that inadvertently the name of appellant was mentioned as Hayatullah S/O Mirza Ayub R/O Painsa Khel Wazir instead of Hayatullah S/O Mir Kalam R/O Takht Nasrati Karak. (Copy as annex "G")
9. That on 07-03-2016, accused Akhya Jan and Hayatullah were convicted for three years and fine of Rs. 1, 00, 000/- in FIR No. 338 dated 30-12-2013 Police Station Domel Bannu. (Copy as annex "H")

10. That Akhya Jan and appellant Hayatullah filed appeal against their conviction before the Peshawar High Court, Bannu Bench for acquittal on 11-03-2016. (Copy as annex "I")
11. That appellant submitted appeal before R. No. 02 for reinstatement in service with all back benefits. (Copy as annex "J")
12. That the said appeal was marked for reinvestigation to DPO Lakki Marwat who investigated the matter and submitted finding report to the authority stating therein that no evidence was brought on surface to connect appellant with the Commission of offence. The allegations were not proved and he is recommended for reinstatement by SP Investigation Lakki Marwat. (Copy as annex "K")
13. That in pursuance of the enquiry report SP Investigation Lakki Marwat, appellant was reinstated in service on 20-03-2016 by setting aside order of dismissal from service dated 31-12-2013 by R. No. 01. (Copy as annex "L")
14. That despite the aforesaid order, DPO Lakki Marwat was not reinstating appellant in service, so he submitted application before R. No. 02 on 30-06-2016 to direct DPO Lakki Marwat to reinstate appellant in service. (Copy as annex "M")
15. That on 28-07-2016, the application of appellant was turned down, reinstatement order of appellant was reviewed and was filed. (Copy as annex "N")
16. That appeal of appellant etc came up for hearing on 21-12-2016 and then the hon'ble court Bannu Bench was pleased to acquit appellant etc from the baseless charges. (Copy as annex "O")
17. That on 07-11-2020, appellant filed Writ Petition No. 1202-B/20 before High Court Bannu Bench for setting aside review order dated 28-07-2016 of R. No. 02 which came up for hearing on 14-12-2020 and then the hon'ble court was pleased to direct appellant to approach before concerned quarter for redressel of his grievances. (Copies as annex "P" & "Q")

Hence this appeal, Inter Alia, on the following grounds;

GROUND S

- a. That since the date of order of appointment, appellant served the department till date of dismissal from service without any complaint.
- b. That frivolous FIRs were registered in different Police Stations but the same were culminated into acquittal of the accused.
- c. That identification parade was held in District Jail Kohat and abductee M. Shah Khalid S/O Ayaz Ali Shah identified twice accused Abdul Haleem Gul but never identified appellant as such.
- d. That appellant was dismissed from service by R. No. 01 without serving him Charge Sheet and conducting regular enquiry into the matter being mandatory.
- e. That as and when appellant preferred departmental appeal for reinstatement in service before R. No. 02 which was investigated and appellant was found innocent.
- f. That in pursuance of the aforesaid enquiry report appellant was reinstated in service by setting aside order of dismissal from service of R. No. 01.
- g. That despite order of reinstatement in service the authority was legally bound to reinstated appellant in service but the same authority reviewed his order and appellant was not reinstated as such. No review power exists with the authority under the law.
- h. That the hon'ble Peshawar High Court, Bannu Bench directed appellant to approach before proper forum for the redressal of his grievances and hence this appeal.
- i. That when appellant was acquitted from the baseless charges then no justification exists with the department to not reinstate appellant in service.
- j. That appellant has no concern, whatsoever, with any commission of offence. Appellant is the son Mirza Ayub R/O Painsa Wazir Domel Bannu, while the actual accused was Hayatullah son of Mir Kalam who was involved in the commission of offence of theft etc. This

Hayatullah S/O Mir Kalam was the brother of Shahidullah S/O Mir Kalam R/O Zarbi Wala Takht Nasrati Karak.

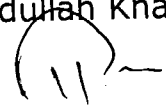
- k. That appellant was booked for the liabilities of others and not for himself. All the proceedings were based on malafide.

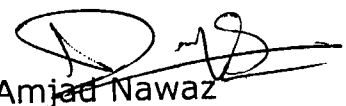
It is, therefore, most humbly prayed that on acceptance of the appeal, orders dated 31-12-2013 and 28-07-2016 of the respondents be set aside and order dated 29-03-2016 be restored with all consequential benefits with such other relief as may be deemed proper and just in circumstances of the case.


Appellant

Through


Saadullah Khan Marwat


Arbab Saiful Kamal


Amjad Nawaz
Advocates

Dated: 24-06-2021

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.


Advocate

AFFIDAVIT

I, Hayat Ullah S/O Mirza Ayub Khan, R/o Painsa Khel, Domel Bannu, EX Constable No. 681, Police Line Bannu (appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.


DEPONENT

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ وزیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

نمبر 316 تھانہ انڈسٹریل ایریا ضلع اسلام آباد تاریخ وقت وقعہ 16.07.13 وقت 10.25 بجہ دن 11.05

۱-	تاریخ و وقت رپورٹ	16.07.13 بوقت 11.30 بجیدن نمبر 26
۲-	نام و سکونت اطلاع دہندہ و مستغیث	درخواست ازاں محمد شاہد شفیق سکنہ ہاوس نمبر 70 سٹریٹ نمبر 117 سیکٹر 11/4 اسلام آباد فون نمبر 0321-2514663-0301-8201343
۳-	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہوا۔	381 A تپ مسروقہ کرولا GLI کار نمبر GS602
۴	جائے وقوعہ فاصلہ تھانہ سے اور سمت	بحدرقبہ ہائیر ایجوکیشن سیکٹر H-9 بقاصلہ قریب 2 کلومیٹر جانب شمال از تھانہ
۵-	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	حسب آمد درخواست مقدمہ درج رجسٹر ہوا
۷-	تھانہ سے روانگی کی تاریخ و وقت	بذریعہ ڈاک

دستخط محمد یوسف عہدہ ASI ابتدائی اطلاع نیچے درج کرو:

نوٹ۔ اطلاع کے نیچے اطلاع دہندہ کا دستخط یا مہر یا نشان انگوٹھا ہونا چاہئے اور افسر تحریری کنندہ (ابتدائی اطلاع) کے دستخط بطور تصدیق ہونے چاہئے۔
To the SHO PS Industrial Area islamabad. Theft of official vehicle REg No.GS-602. It is to inform that i parked the official vehicle GLI No.GS-802 outside Higher Education Commission. The vehcile was stolen bwteen 10.25 to 11.05 am I will provide further information/ particulars of the vehuicle later on.
The vehicle is in the name of Islamabad High Court. You are requested to do necessary legal action to recvoer the vehicle signg in Eng M. Shahid Shafiq 0331-2514663-031-8201343
ہذا نے تحریری درخواست تھانہ پیش کی جو حرف بحرف سنایا گئی۔ مضمون تحریر درخواست وحوالات وواقعات سے سردست صورت جرم A-381 تپ پائی جا کر رپورٹ ابتدائی اطلاعی بجرم مذکورہ مرتب ہوئی SHO صاحب علاقہ تھانہ میں ہیں جنکو اطلاع اندراج وقوعہ ہذا دی جا رہی ہے محرر بعد تکمیل ریکارڈ نقول FIR مجاز افسران کی خدمت میں ارسال کرنے میں معہ کنسٹیبل شاہد رشید 1787 مصروف تفتیش ہو کر روانہ موقع کا ہوتا ہوں۔

محمد یوسف ASI تھانہ 11/A اسلام آباد

مورخہ 16.07.2013 فون نمبر 0345-3519786

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ وزیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع: کرک

تھانہ یعقوب خان

تاریخ وقت وقوعہ 08.09.13 وقت 07.15 بجے شام

نمبر: 283

۱-	تاریخ و وقت رپورٹ	7.8.13 وقت 17.20 بجے چاکیڈگی پرچہ 7.8.13 وقت 18.20 بجے
۲-	نام و سکونت اطلاع دہندہ و مستغیث	منظور الہی ASI/CIA اسلام آباد
۳-	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہوا۔	PPC 365A/109
۴-	جائے وقوعہ فاصلہ تھانہ سے اور سمت	ہائی وے روڈ بنوں ناکہ بحد امیری ولہ بنا چکی بانڈہ بفاصلہ 9/10 کلومیٹر شمال از تھانہ
۵-	نام و سکونت ملزم	
۶-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	مراسلہ رپورٹ پر پرچہ دیا جاتا ہے
۷-	تھانہ سے روانگی کی تاریخ و وقت	بطور سپیشل رپورٹ۔

ابتدائی اطلاع نیچے درج کرو: اس وقت ایک تحریری مراسلہ منجانب منظور الہی ASI/CIA اسلام آباد بدست کنسٹیبل عبد المالک 6526/C موصول ہو کر درج ذیل ہے۔ بخدمت جناب SHO صاحب تھانہ YK تخت نصرتی۔ جناب عالی مورخہ 16.07.13 کو جناب شاہد شفیق صاحب ڈسٹرکٹ اینڈ سیشن جج بینکنگ کورٹ اسلام آباد نے اپنی سرکاری گاڑی نمبر LOT/2602 کرولا GLI برنگ سیاہ ماڈل جو کہ اسلام آباد ہائی کورٹ کی ملکیتی ہے۔ جس کا چیسز نمبر NZE12-6033996 تھا جب ہائیر ایجوکیشن پنچ اسلام آباد کالج کے باہر کھڑی کی کسی نامعلوم چور نے چوری کر لئے ہیں مقدمہ نمبر 316 مورخہ 16.07.13 جرم 381 تپ تھانہ انڈسٹریل ایریا اسلام آباد درج رجسٹر کیا گیا۔ جسکی تفتیش حسب احکم افسران بالا من ASI کے حوالہ ہوئی۔ مورخہ 05.08.13 کو جناب جج صاحب نے موبائل نمبر 03018201343 پر فون نمبر 03438309591 سے کال آئی جس نے اپنا نام حاجی برکت بتلایا۔ جو کہ زبان سے پٹھان لگتا تھا جس نے بتلایا کہ آپ کی گاڑی نمبری CT 602 میرے پاس ہے اگر آپ 250000/- روپے نقد رقم دیتے ہیں تو گاڑی واپس کر دیتے ہیں۔ مورخہ 06.08.13 کو جناب جج صاحب انٹی کار لفٹنگ سیل میں حاضر آئے۔ حسب ہدایت افسران بالا من ASI، محمد اکبر ASI کانٹریبل ٹار 785/CA کانٹریبل غلام فرید 1841 جناب جج صاحب ہمراہ گن مین عبد المالک 6526/C حسب پروگرام کانٹریبل غلام فرید کوسول پرچات میں رقم دیکر پیرودھائی اڈہ سے بنوں والی دین پر بٹھایا جبکہ باقی ہم پرائیویٹ گاڑی پر اس دیگن کے

پچھے روانہ ہوئے کنسٹیبل غلام فرید کے ساتھ ایک پرائیویٹ آدمی جس کا نام شاہ خالد ولد آواز شاہ سکنہ عبداللہ شاہ کالونی کوہاٹ کو امدادی کے طور پر غلام فرید کے ساتھ وینگ پرائڈ ہائی وے کوہاٹ سے بٹھایا۔ جب وہ دونوں لاپچی کے علاقے میں پہنچے تو حاجی برکت نے فون کیا کہ یہاں اتر جاؤ ہمارے آدمی آپ کو گاڑی دیتے ہیں۔ تھوڑی دیر بعد دوبارہ کال آئی کہ کرک آ کر چکی بانڈہ آ جاؤ جب کنسٹیبل غلام فرید اور شاہ خالد چکی بانڈہ بوقت قریب 7/15 بجے شام پہنچے تو غلام فرید کے موبائل فون نمبر 0333-8411842 اور شاہ خالد کے موبائل نمبر 0336-2741844 کے نمبرات پر رابطہ کیا جنہوں نے بتلایا کہ وہ آدمی ہمارے پاس بات ہو رہی ہے۔ تھوڑی دیر بعد گاڑی آتی ہے اور ہم آپ کو بتلاتے ہیں۔ جناب جج صاحب کو موبائل نمبر 03018201343 بھی غلام فرید کے پاس تھا۔ تمام فون نمبرات بند ہو گئے امروز 07.08.13 کو موبائل نمبر 0305-5333130 سے جناب جج کے موبائل نمبر 03312514663 پر کال آئی کہ آپ کے آدمی ہمارے پاس ہیں۔ 50 لاکھ روپے تاوان دیں ورنہ جان سے مار دیں گے اور اس کی ریکارڈنگ بھی سنوائی لہذا ان نامعلوم اغوا کاروں نے کانسٹیبل غلام فرید اور شاہ خالد کو اغواء برائے تاوان کر کے سریدست ارتکاب جرم 365A/109 تپ کا کیا ہے۔ جن کے خلاف مراسلہ مرتب کر کے بدست کنسٹیبل عبدالملک 6526/C ارسال تھا نہ ہے تخت نصرتی ہے۔ مقدمہ درج رجسٹر کر کے کسی دیگر تفتیشی ٹیم کو مامور تفتیش کیا جاوے۔ دستخط انگریزی منظور الہی ASI/CIA اسلام آباد 7.8.13 کاروائی تھا نہ آمدہ مراسلہ حرف بحرف درج بالا ہو کر پرچہ مجرم بالا فوق چاک ہو کر نقل پرچہ معہ مراسلہ بغرض تفتیش حوالہ KBI شاف کیا جاتا ہے پرچہ بطور سپیشل گزارش ہے۔ SHO/YKS 7.8.13

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ وزیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع: بنوں

تھانہ ڈومیل

تاریخ وقت وقوع 19.11.13 وقت 11.20 بجے

نمبر: 338

۱۔ تاریخ و وقت رپورٹ	13.11.19 وقت 11.20 بجے چاکیڈگی
۲۔ نام و سکونت اطلاع دہندہ و مستفیث	نبی شاہ خان SHO ڈومیل
۳۔ مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہوا۔	PPC 420-468-471-472-474
۴۔ جائے وقوعہ فاصلہ تھانہ سے اور سمت	بودین خیل روڈ پٹوں خیل موڑ
۵۔ نام و سکونت ملزم	اضیاء جان ولد بہادر خان سکنہ پائندہ خیل
۶۔ کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بعد حصول رائے پر چہ دیا گیا
۷۔ تھانہ سے روانگی کی تاریخ و وقت	برسبیل ڈاک۔

ابتدائی اطلاع نیچے درج کرو: بحوالہ مد نمبر 13 مورخہ 19.11.13 زیر دفعہ 523/550 ض میں موٹر کار نمبر 4242/LEF-07 ملزم مندرجہ خان نمبر 5 سے قبضہ پولیس کیا گیا جسکی ویری فیکیشن ETO آفس لاہور سے کرائی گئی۔ جو ETO آفس لاہور نے کاپی رجسٹریشن نمبر 4242/LEF-07 جو درخواست ہذا میں قبضہ پولیس کی گئی تھی۔ بوگس اور جعلی تیار شدہ تھریر کیا جس پر رائے جناب DPP صاحب بنوں سے حاصل کر کے DPP نے برخلاف ملزم مقدمہ بجرانم بالا درج کر نیا تحریر کیا جو حسب رائے DPP صاحب مقدمہ بجرم بالا برخلاف ملزم مندرجہ خانہ 5 درج رجسٹر ہو کر نقول FIR بغرض نقل مد ذیل ہے۔ واپسی نبی شاہ خان SHO صاحب مورخہ 19.11.13 وقت 11.20 بجے بحوالہ مد نمبر 11 بالا عبدالرشید خان ASHO رفتہ بحوالہ مد نمبر 6 بالا بعد از گشت کے ناکہ بندی واپس ہو۔ چند دنوں سے اطلاع تھی کہ علاقہ تھانہ ڈومیل کی حدود میں ایک موٹر کار برنگ سفید نمبر 4242/LEF کرولا مشتبہ حالت میں گھوم پھر رہی ہے جو اس اطلاع کے مطابق آج بمقام بودین خیل روڈ ناکہ بندی کی گئی۔ بدوران ناکہ بندی بتلائے ہوئے انفارمیشن کے مطابق ایک موٹر کار نمبر 4242/LEF بطرف بودین خیل آتا ہوا اشارہ کرنے پر گاڑی ایک سائیڈ پر کھڑی ہو گئی۔ چیک کرنے پر ڈرائیور اس کیساتھ فرنٹ سیٹ پر بیٹھا شخص ہر دونوں کو نیچے اتار جا کر دریافت پر ڈرائیور نے اپنا نام حیات اللہ ولد میر نواب سکنہ کوتکہ میر نواب پائندہ خیل

اور دوسرے شخص نے اپنا نام رضیاء جان ولد بہادر خان سکنہ پائندہ خیل بتلایا۔ اور موٹر کار بھی رضیاء جان نے اپنی ملکیت تسلیم کی۔ موٹر کار کو چیک کیا گیا جس میں کوئی مشکوک شے برآمد نہ ہو۔ بابت موٹر کار رضیاء جان نے ایک قطعہ رجسٹریشن کا پی بنام خان محمد اصغر ولد محمد یاسین سکنہ ہاؤس IO BS/2259 مکہ سٹریٹ مدینہ کالونی گلشن راوی لاہور پیش کی۔ موٹر کار چیسز نمبر INZE 1206070776 انجن نمبر X607480 ماڈل 2007 کروا کی چیک کئے گئے موٹر کار سرقہ شدہ معلوم ہوتا ہے موٹر کار مع رجسٹریشن کا پی علیحدہ بروئے فرد قبضہ پولیس کی گئی۔ مالک موٹر کار رضیاء جان کو سریدست زیر دفعہ 54 ض ف گرفتار کر کے مخلصی دی جاتی ہے۔ سریدست حاضرہ واقعات اور انکوائری کرنے کے لئے معاملہ مشکوک اور دریافت طلب ہے۔ سریدست دریافت 529/550 ض ف عمل میں لائی جاتی ہے۔ موٹر کار کو ہمراہ تھانہ لاکر زیر نگرانی سنٹری تھانہ کھڑا کیا گیا کا پی رجسٹریشن حوالہ محرر تھانہ کی گئی۔ دریافت مزید انکوائری کے لئے سید آواز خان ASI کو مامور دریافت کیا جاتا ہے۔

جناب عالی نقل بمطابق اصل ہے۔

**OFFICE OF THE
DISTRICT POLICE OFFICER,
BANNU**

Phone No. 0928-9270038

Fax No. 0928-9270045

OB No. 1453/EC

Dated 31.12.2013

To: Constable Hayatullah no.681 of District Bannu police.

ORDER

1. You, Constable Hayatullah no.681 were charged for the misconduct communicated to you during departmental proceedings the gist of which is that you had tainted reputation and remained involved in anti social activities. You also remained involved in the business of stolen and non custom paid vehicles. Accordingly proper departmental enquiry was conducted to find out facts.
2. Mr. liaqat Shah DSP Naurang District Lakki was appointed as Enquiry officer who has submitted his findings wherein the charges leveled against you have been proved. Besides, you were also booked and arrested by District Karak police in Fir No.283 dated 7.8.2013 U/S 365A/302/353/109/PPC Police Station Takht Nasrati recently. In this criminal case one person died when kidnapped for ransom by some unknown persons. Punjab police arrested the accused who revealed your name as their accomplice.
3. You were called in the orderly room on 30.12.2013 but you did not turn up as you were under custody of Karak Police. I, Mohammad IQBAL, DPO Bannu, as competent authority under Police rules (amended vide NWFP gazette, 27 January 1976) have come to the conclusion that charges leveled against you are proved beyond any doubt and that your retention in police service would be harmful for the force. I have, therefore, decided to impose major penalty of dismissal from service upon you. This order will take effect immediately.

District Police Officer,
Bannu

IN THE COURT OF ISHFAQ AHMAD CIVIL JUDGE-V/ MOD KOHAT

FIR No. 283 dated 07.08.2013 U/S 365-A/302/353/109 PPC PS Yak District Karak.

IDENTIFICATION PARADE.

In compliance to the order of worthy Judge, Anti Terrorism Court Kohat Region, Kohat. The undersigned visited District jail Kohat on 27.01.2014 with the permission of the worthy District 7 sessions Judge, Kohat to conduct/ supervise the identification parade, in respect of accused Hayat Ullah s/o Mirza Ayub r/o Painsda Khel Wazir Domail District Bannu and Abdul Haleem Gul alias Lemy S/o Umar Gul R/o Karak in the subject case. Abductee Muhammad Shah Khalid S/o Ayaz Ali Shah was there, being priorly informed IO along with record also present. Necessary arrangement were being made by Superintendent jail.

17 persons including accused Hayat Ullah and Abdul Haleem Gul were made to sit in a row. The names of the dummy accused are, 1. Yaseen 2. Ismail 3. Musa Khan 4. Imran 5. Janas Khan 6. Zahid Khan 7. Fazal e Majeed 8. Aziz Ullah 9. Shakeel Khan 10. Ishaq 11. Junaid 12. Ameer Shah 13. Haji Zaman 14. Tariq and Yousaf Khan. Most of the dummy accused were having same features as that of accused above. Abductee Muhammad Shah Khalid was kept away at the time of making such arrangement, On first turn accused Abdul Haleem Gul was sitting at position No.4 from left to right. While Hayat Ullah at Position No.10. Abductee Muhammad Shah Khalid was called and asked to identify the accused, who without hesitation placed his hand upon accused Abdul Haleem Gul, while he failed to identify the other accused Hayat Ullah. By sending abductee, out of the scene, the position of the accused were changed. This time, Accused Abdul Haleem Gul was made to sit at position No. 09 while accused Hayat Ullah at position No.13 from left to right. He once again with without hesitation placed his hand at accused Abdul Haleem Gul while failed to identify accused Hayat Ullah, By

Sending the abductee away, the positions of the accused were changed. This time, accused Abdul Haleem Gul was shifted to position No. 13 while accused Hayat Ullah to position No. 08 from left to right. When called the abductee, without any hesitation identify the accused Abdul Haleem Gul but failed to identify the accused Hayat Ullah.

NOTE:- The whole proceedings were conducted in the Jail premises. Which is supervised by the undersigned in person and the abductee namely Muhammad Shah Khalid on every turn has been sent out of scene till next arrangement.

Sd/-

Ishfaq Ahmad
Civil Judge-V MOD, Kohat.

بعدالت جناب سیشن جج صاحب ضلع بنوں
حاجی اجمل خان ولد مرزا ایوب سکندہ پائندہ خیل ڈومیل ضلع بنوں

بنام

سرکار

علت نمبر 338 مورخہ 19.11.13 جرم 420,488,471,472,474 تھانہ ڈومیل

درخواست برائے واپسی اسپر داری ایک عدد موٹر کار رجسٹریشن

نمبر LEF/4242 بمعہ رجسٹریشن کاپی چابی وغیرہ

جناب عالی۔ سائل/مالک ذیل عرض رساں ہے۔

۱۔ یہ کہ مال مقدمہ موٹر کار مذکورہ بالا مقدمہ عنوان بالا میں زیر قبضہ پولیس تھانہ ڈومیل ہے جو کہ سائل کی ملکیت ہے اور تمام ملکیتی کاغذات زیر قبضہ پولیس ہے۔

۲۔ یہ کہ سائل موٹر کار مذکورہ بالا کا bonafide خریدار ہے اور موٹر کار مذکورہ کو سائل نے 935000 روپیہ نقد رقم پر شفیق اللہ نامی شخص سے خریدا ہے۔ نقل اقرار نامہ لف ہے جبکہ اصل بوقت بحث کی جائے گی۔

۳۔ یہ کہ موٹر کار مذکورہ کا پولیس کو مزید برائے تفتیش ضرورت نہ ہے اور تھانہ میں کھڑا رہنے سے خراب ہونے کی اندیشہ ہے۔

۴۔ یہ کہ سائل انتہائی غریب ہے اور موٹر کار مذکورہ سائل کی واحد ذریعہ معاش ہے۔

۵۔ یہ کہ موٹر کار مذکورہ کا دیگر کوئی Rival claimant میں ہے۔

۶۔ یہ کہ دیگر نقاط بوقت بحث عرض کئے جائینگے مقدمہ ہذا ASJ میں زیر سماعت ہے جس میں آئندہ تاریخ پیشی 11.5.15 مقرر ہے۔

لہذا استدعا ہے کہ سائل/مالک کو موٹر کار مذکورہ سپرداری پرواپس کرنے کے احکامات صادر فرمائی جاویں۔

مالک حاجی اجمل خان بذریعہ وکیل خود

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14-5-15

ORDER

19.05.2015

Counsel for the petitioner present. PP for the State also present.
File the instant case is before, as the trail in this case is also pending in this Court and is fixed for 10.06.2015.

The Petitioner Haji Muhammad Ajmal Khan has filed this application for return of a motorcar registration No. LEF4242 on Superdari till disposal of the case. The said motorcar was taken into possession by the local police on 19.11.2013 under Section 523/550 CrPC from the possession of one Hayat Ullah and Ahya Jan. Entry of the said Seizer was made in a daily Diary # 13 dated 19.11.2013 and after completion of proceedings U/s 523/550 CrPC a case Fir no.338 dated 30.12.2013 U/S 468/471/472 and 474 PPC registered in P.S Domel, Bannu. Complete challan of the case was submitted, entrusted to this court and received here on 14.03.2014. Accused were summoned. Charge against the accused was framed by my learned predecessor in office on 18.09.2014 after compliance of provisions of Section 265-C CrPC Prosecution was directed to produce evidence in support of the charge. No prosecution witness appeared till the previous date in the trial i.e. 11.05.2015. On the said date, this application was also fixed it was however, told that the PWs can be called through their mobile phone or PTCL No. of the police station. They were accordingly called through Naib Court. Only two PWs namely Abdul Majid Khan ASI and Abdul Rashid Khan ASI appeared in response to the call while none of the remaining PWS appeared. The main case was adjourned to 10.06.2015 while this petition for today.

Learned counsel for the petitioner argued that the motorcar in question is standing in open air. That the motorcar is valuable property.

That the value of the motorcar is decreasing day by day due to weather. That there is every likelihood of complete damage of the

motorcar. That misusing of the said motorcar by the local police can also not be taken out of the consideration. That the prosecution is deliberately not concluding the case and is reluctant in production of the evidence. That the petitioner is lawful owner of the motorcar and he has been deprived of its use since its taking possession on 19.11.2013. He produced affidavit of accused Ahya Jan in whose possession the motorcar was allegedly found at the relevant time and stated that he has got no objection on return of the motorcar to the petitioner Haji Muhammad Ajmal Khan on Superdari.

PP for the state vehemently opposed this petition and argued that documents of the motorcar were found forged as per report of MRA Lahore dated 23.11.2013. He undertook that he will try his best to produce all the remaining PWs on the date fixed in the main case i.e. 10.06.2015. He requested for dismissal of this petition.

Perusal of the record would show that the motorcar in question was shown to be taken into possession from the accused Hayat Ullah and Ahya Jan on 19.11.2013. Inquiry U/S 523/550 CrPC was initiated. During the inquiry, the DPO, Bannu wrote a letter No. 14932 dated 22.11.2013 to the MRA, Lahore for verification of the documents. A report as shown to be obtained on the foot note of the said letter on 23.11.2013 i.e. the very next date. It is not clear from the record that who obtained the said report and under whose direction, the said person proceeded to the office of MRA, Lahore for obtaining the report. It cannot be ascertained at this stage that the Registration Book of the motorcar was forged. Prosecution has not been able to produce evidence or conclude the trial

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Since the date of framing of charge i.e. 18.09.2014. The motorcar in question has been parked in the P.S since its taking possession on 19.11.2013. Misuse of the motorcar in question by the local police can also not be taken out of consideration. There is every likelihood of damage, devaluation and deterioration of the motorcar by parking in the P.S for indefinite period. The motorcar was admittedly taken from the last possession of the accused Ahya Jan and Hayat Ullah. The accused Ahya Jan submitted affidavit today where he has got no objection on return of the motorcar to the petitioner Haji Muhammad Ajmal Khan on superdari.

Keeping in view the above, this court is convinced that the petitioner is entitled for return of the motorcar registration No. LEF 4242 on superdari. Application in hand is therefore accepted. The motorcar is returned to the petitioner Haji Ajmal Khan on superdari alongwith its documents and key etc provided he furnishes surety bonds of Rs. 10,00,000/- with 02 sureties each as well as personal bond of the same amount to the satisfaction of SHO concerned. The petitioner shall produce the motorcar in question before the local police, this court or any other court as and when required. He shall not dispose of the same till final decision of the main case. File be consigned to the Record Room after its completion.

Announced
19.05.2015

Munawar Khan
Additional Sessions Judge-I
Bannu.

سپر وگی نامہ

موٹر کار نمبر LEF/4242 بمعہ رجسٹریشن چابی وغیرہ

بعدالت جناب ایڈیشنل سیشن جج صاحب نمبر 1 بنوں

علت نمبر 338 مورخہ 19.11.013 جرائم PPC 420,468,471,472,474 تھانہ ڈوئیل

حاجی اجمل خان بنام سرکار

مال مقدمہ اعدہ موٹر کار رجسٹریشن نمبر LEF/4242 X کاپی چابی وغیرہ

بحکم مورخہ 19.5.15 میری درخواست پر عدالت بالانے مال مقدمہ بالا کو مبلغ -/1000000 روپے کا چکلہ لکھنے پر رہا کرنے کا حکم صادر فرمایا ہے۔ اقراری ہوں کہ مال مقدمہ بالا میرے پاس امانت رہے گا۔ عدالت جب اور جس عدالت میں حاضر کرنے کا حکم دے حاضر کرونگا بصورت خلاف ورزی مبلغ -/1000000 روپے بطور تاوان بحق حکومت پاکستان ادا کرونگا۔
مورخہ 19.05.15

العبد

حاجی اجمل خان

- ۱- شیر باز خان ولد میرزا ایوب سکندہ پائندہ خیل ڈوئیل ضلع بنوں ضامن
- ۲- فیروز خان ولد میرزا ایوب سکندہ پائندہ خیل ڈوئیل ضلع بنوں ضامن

چونکہ عدالت بلانے مبلغ دس لاکھ روپے کی ضمانت پر مال مقدمہ بالا مالک کو حوالہ کرنے کا حکم کیا ہے۔ ہم ضامنان اقراری ہیں کہ تا تصفیہ مقدمہ مال مقدمہ بالا مالک کے پاس رہے گا۔ جس عدالت میں حاضر ہونے کا حکم ہوا حاضر کرے گا۔ بصورت دیگر ہم ضامنان مبلغ دس لاکھ روپے بحق حکومت پاکستان ادا کریں گے۔

مورخہ 19.5.15

العبد 3-5992644-22201

فیروز خان ضامن

العبد 9-222059-222011

شیر باز خان ضامن

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16-9-15

**IN THE COURT OF MR, GOHAR REHMAN JUDGE, ANTI TERRORISM
COURT KOHAT DIVISION KOHAT.**

Case No.11 of 2015

The state through Manzoor Elahi ASI
Car Lifting Cell Islamabad.....(Complainant)

.....Versus.....

1. Abdul Matin S/o Waras Khan r/o Madi Khel Azam Kala
2. Rizwan Ullah S/o Gul Sattar R/o Surati kala
3. Muhammad Ali S/o Zar Ajam Khan R/o Aodin Shah Kala
4. Abdul Haleem alias Limay S/o Umer Gul r/o Karak
5. Hayat Ullah S/o Mirza Ayub r/o painda Khel wzir.
6. Saheed Ullah S/o Mri qalam r/o Zehri Wala
7. Muhammad Sabeel S/o Abdullah R/o Kotka Alam Khan,
Domail.....(Accused)

Date of Institution	02.02.2015
Date of Decision	16.09.2015

JUDGMENT:-

The accused named above are charged in case FIR NO.283 Dated 07.08.2013 U/S 365-A/302/353/109 PPC of PS YKS, District Karak and faced their trial before this Court.

Brief facts of the case are that the official motorcar bearing Registration No. GS-602/ICT of the Judge banking Court Islamabad was stolen by some unknown accused, regarding which case FIR no.316, dated 16.07.2013 U/S 381-A PPC of PS Industrial estate Islamabad was registered and investigation of the case was handed over to Manzoor Elahi ASI, the complainant of the instant case, who wrote the murasila of the present FIR. It is the case of prosecution that on 05.08.2013, on mobile No. 031-8201343, the Judge banking Court received a call from mobile No. 0342-8309891, and the caller disclosed his name as Haji Barkat and demanded rs. 250,000/- for return of the motorcar. The Judge then went to the car Lifting Cell and on the

Directions of the high ups, Constable Ghulam Farid was boarded in a Van to Bannu and Manzoor Elahi ASI along with other staff and the Judge, followed him in a private vehicle. A person namely Shah Khalid r/o Kohat also accompanied Ghulam Farid from Indus Highway Kohat for his assistance. Haji Barkat called Ghulam Farid and asked him to reach Machki Banda Karak and when they reached there, they were contacted for the last time by complainant party and after that their mobile were switched off and on 07.08.2013, a call was made on mobile No. 0305-5333130 of Judge, from Mobile No. 0331-2514663 and the accused party demanded Rs. 50,00000/- (Rupees Fifty lacs) as ransom amount for release of the abductees and hence the aforementioned FIR was registered against unknown accused on the basis of mruasila of complainant.

The local police started investigation and during the investigation the local police came to the conclusion that accused facing trial are involved in the commission of offence. Hence the accused facing trial were nominated in this case as accused.

After completion of the investigation, the investigating agency submitted complete challan for trial and section 265(C) CrPC was complied with, copies were delivered to the accused & Counsel, thereafter the charge was furnished to which they pleaded not guilty and claimed trial.

The prosecution was allowed to produce their evidence, and they produced 21 Pws the gist of prosecution evidence is as under:

PW 1 is the statement of Muhammad Akbar ASI PS Noon Islamabad, who stated on oath, which is reproduced here:-

" During the days of occurrence, I was posted as CIA/ ACLC Islamabad, in connection with FIR No.316, dated 16.07.2013 u/S 381-A PPC PS Industrial Area Islamabad vide which an official motorcar bearing no. GS-602 corolla of black color, model 2008 used by Mr. Shahid Shafiq, Sessions Judge banking Court Islamabad was stolen Mr. Shahid Shafiq Judge banking Court Islamabad visited ACLC on 06.08.2013. Mr. Shahid Shafiq told that he had received a phone call from one Haji Barkat and has been asked to pay

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Rs. 250,000/- and they will release his motorcar. It was further told by Mr. Shahid Shafiq that car will be handed over near Lachi District Kohat. He further told us that they should come to Lachi in a private motorcar. It was planned in ACLC that a constable namely Ghulam Farid will proceed to Lachi alongwith Rs. 250,000/- and he will be accompanied by another person namely Shah Khalid from Kohat. I, Manzoor Elahi ASI, Mr. Shahid Shafiq, Constable Nisar and gunman of Mr. Shahid Shafiq also followed the coaster in a private motorcar. When we reached near Indus Highway, Shah Khalid also boarded the coaster as per our plan. When we reached near Lachi, Constable Ghulam Farid and Shah Khalid were asked by the abductors to stop near a petrol pump. We also parked our motorcar nearby i.e. 100/150 yards from coaster. Constable Ghulam Farid was in possession of mobile phone of Mr. Shahid Shafiq Sessions Judge. Haji Barkat contacted Ghulam Farid and asked him to come to Machaki Banda District Karak to take the motorcar. Ghulam Farid asked us through telephone to follow them by keeping a distance of 1 Km because the accused were suspecting that another car is following the coaster in which Ghulam Farid and Shah Khalid were travelling. When we reached Takht e Nasrati Chowk, Ghulam Farid told us through telephone that they have reached near Machki Banda and a motorcar bearing 707 is roaming near them. After some time they again contacted us that the accused persons have met them and are bringing the motorcar of Mr. Shahid Shafiq after some time. After same time, we contacted them through message and they replied to wait. Thereafter, we attempted to contact them but the numbers were switched off. We visited the PS Takht e Nasrati and informed the police about the occurrence. The DPO and SHO also reached the PS we stayed at Circuit House for a night. On the next day, when we were in the DPO office, a call was received on the phone of Mr. Shahid Shafiq and the caller asked him that their people are in their custody and they will release them after payment of Rs. 50,00,000/- Manzoor Elahi ASI drafted murasila and sent it to PS Takht e Nasrati through Constable Abdul Malik. After registration of the case, we returned back in Islamabad.

Pw-2 is the statement of Manzoor Elahi ASI ACLC Islamabad, who stated on oath, which is reproduced here:-

" The investigation of case FIR No.316, dated 16.07.2013 U/S 381-A PS Industrial Area Islamabad in which an official motorcar bearing No. GS-

Hospital and found the dead body of Ghulam Farid and Shah Khalid and another abductee namely Musawar were also present there. The statements of Shah Khalid and Musawar were recorded by the police. The dead body was handed over to us after PM examination and we took the dead body to Islamabad and handed it over to his relatives. I got prepared the sketches of two accused through Shah Khalid and handed these sketches over to Inspector Khalid Usman IO and also placed the copies of these sketches on the file of Case FIR No. 316 dated 16.07.2013 of PS Industrial Area Islamabad. Accused Abdul Matin, Muhammad Ali and Rizwan were arrested by new town police of District Rawalpindi in a theft of another motorcar. On receiving this information we reached new town Police station and accused Abdul Matin and Muhammad Ali were having resemblance with the sketches prepared earlier. I also formally arrested three of them in case FIR No.316 dated 16.07.2013. During investigation, they disclosed the names of their co-accused and also disclosed that they are involved in the commission of offence of this case. I also informed the Karak Police about the arrest of these three accused. The IO Falak Nawaz of Karak police visited Islamabad and arrested these three accused in this case. He also recorded my supplementary statement in which I have charged these accused".

PW 3 is the statement of Abdul Malik Constable no. 6526, Gunman to Minister Religious Affairs Islamabad, who stated on oath which is reproduced here:-

" During the relevant days, I was serving as Gunman of Mr. Shahid Shafiq Judge Banking Court Islamabad. I have accompanied them to District karak for the purpose of recovery of the motorcar of Mr. Shahdi Shafiq, which was stolen from Islamabad. I have taken the mruasila, scribed by Manzoor Elahi ASI to PS Takht e Nasrati (YKS) of District Karak".

PW-4 is the statement of Shah Khalid S/o Syed Ayaz Ali Shah aged about 22 years R/o H No.29, Kohat Cantt Kohat, who stated on oath which is reproduced here:-

" On 06.08.2013 at 11:00 am, Muhammad Akbar ASI contacted me through telephone and told me to come to Pindi Bypass at Highway. He also told me to arrange amount of rupees more than one Lakh. I reached the highway and also called him that I had been reached. He directed me to wait near CNG Pump/

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Interchange of Indus Highway and also told me a constable namely Ghulam Farid will arrive in a coaster. A Coaster arrived at 4:00/4:30 PM, in which the said constable was also travelling and I also boarded in the said coaster. Muhammad ASI conveyed the telephone number of constable Ghulam Farid to me and I called him and saw that he was sitting in the rear portion of the coaster. When we reached near the petrol pump near village Chambai we deboarded from the coaster on the instructions of the accused received through mobile set of Ghulam Farid. After some time a car arrived and topped near us and demanded the amount from us. We asked them to deliver the motorcar to us and then we will give the amount them. They against asked us to board in a vehicle and turned Karak. We boarded in a pickup and reached the Lachi bazar. At Lachi bazar, the accused contacted Ghulam Farid and asked him to take another vehicle and to travel towards Karak. We boarded in a flying coach and travelled towards Karak and we were followed by Muhammad Akbar ASI etc in a motorcar. We stopped at a hotel namely Sony Tower for Aftari. I went to offer my prayers and after offering my prayers, I saw Ghulam Farid was standing with a black colour motorcar. He called me and we both boarded in the same motorcar in which three persons were already present. We started travelling towards Bannu side and I realized that another motorcar was in front of us and the second car was following us. After some time, we left the main Highway and moved towards the right side of the road and suddenly they aimed pistols towards us and blind folded us. They also snatched cash amount and the mobile phones from us and tied our bands behind our back and also beaten us. I request them to release us but they took us to a basement and locked us there. Another abductee namely Musawar was already confined in the same basement. We spend up about 2/3 days in the basement and constable Ghulam Farid bear the beat and suffocation in the basement and he died. After some time, the accused came and I told them about death of Ghulam Farid and request them to let us free alongwith dead body of the Ghulam Farid. The dead body was taken out of the basement with the help of strings of Shalwar and rope. After some time, I and the other abductee were also taken out of the basement and were blind folded. They boarded us in a vehicle and with help of my hands, I realized that dead body of Ghulam Farid was also lying in the same vehicle. They directed us to bow our heads. After travelling for about 30/40 minutes, on a Kacha path, the accused de boarded us from the

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Vehicle along with dead body of Ghulam Farid and warned us not to move. The accused loose the string through which our hands were tied. The accused went from the spot and we set free our hands and eyes. We saw a mosque at some distance and we arrived in the mosque and met with some people in the Hujra and requested them to provide Asylum to us. I took a mobile phone from a person and called Muhammad Akbar ASI and told him about the occurrence and also the location where we were present. After some time, Muhammad Akbar ASI alongwith police arrived and they took us along with them. I reported the matter to the local police vide DD No. 22, dated 08.08.2013 and signed my report. Today, I have seen the attested copy of DD No.22, which is correct alongwith all its contents and the same is Ex PW/1. Later on, I was called through telephone by the police when I was in Islamabad. The police told me that they have arrested an accused who will led them to the basement, where we were confined. The police led me to the basement and I pointed out the place to the police and the IO prepared pointation memo at my instance, which is Ex PW 1/1 and it correctly bears my signature. The also prepared the sketch of place of the recovery of dead body of Ghulam Farid at my instance. My statement was recorded by the IO U/s 1612 CrPC and later on in the court U/s 164 CrPC I also identified accused Muhammad Ali and Haleem Gul in an ID parade, conducted under the supervision of Judicial Magistrate at jail premises”

PW 5 is the statement of Dr. Muhammad Yaqoob Incharge RHC Domail, District Bannu, who stated on oath which is reproduce here:-

On 08.08.2013 at 11:30 PM, I conducted the post mortem of Constable Ghulam Farid S/o Sher Ali aged about 33 years, R/o Chak No.47, BD Noor Pur District Khushab, identified by Manzoor Elahi ASI and Muhammad Akbar ASI and found the followings:

External Appearance:

1. Ligature mark on the right upper arm above right elbow.
2. Healthy Body, Rigor mortis and PM staining present. Very obese.
3. No obvious wound found on person.

Abdomen: All the contents of abdomen are healthy.

Granium and spinal Cord: Healthy

Muscles bones and Joints: Healthy

Thorax: Healthy

Opinion:

In my opinion the deceased died due to beat exhaustion and stroke leading to disturbance of beat regulating cavities and death.

Probable time between injury and death

Between death and post Mortem 8 to 10 hours

Today I have seen my PM report which is correct in my handwriting and correctly bears my signature and the time same is Ex PW 5/1

PW-6 is the statement of Zahid Nawaz (Sic) 15 KBI Staff Karak, who stated on oath which is reproduced here:-

" I am the marginal witness to the recovery memo Ex PW 6/1, ride which the I.O Falak Nawaz took into his possession one mobile set Nokia 101 of black colour Ex PW 6/2 Code No.05967N6 Sr No.357285/05/478216/0, Sr No.357285/05/478217/8 Sr No. CEO 434 alongwith SIM No. 0333-9718455, owned by accused Abdul Haleem alias Lemay, produced by Abdul Majid, which was sealed into parcel. The memo is correct and correctly bears my signature.

PW-7 is the statement of Latif Ullah Inspector Bannu investigation incharge, Bannu, who stated on oath which is reproduced here:-

"During the days of occurrence, I was posted as SHO at PS Domail District Bannu. One Shah Khalid S/o Said Ayaz r/o Kohat Cant on 08.08.2013 reported the matter to mw which was recorded in DD No.22, dated 08.08.2013 which is already exhibited as Ex PA/1 I also prepared injury sheet and inquest report of deceased Ghulam Farid , which are Ex PW 7/1 and Ex PW 7/2. The contents of which are correct and correctly bears my signature."

PW-8 is the statement of Muhammad Shahid Shafiq Judge District Judiciary Sindh, who stated on oath which is reproduced here:-

" During the days of occurrence, I was posted as Judge banking Court Islamabad. On 16.07.2013, my official vehicle bearing registration No.602/GS was stolen when it was parked outside the Higher Education Commission Office Islamabad. It was about 10:00 AM, when I parked the vehicle On my return at about 10:40 AM, I did not find the vehicle. I immediately reported the matter to the police station Industrial Area Site. The SHO visited the place of incident

Immediately and I at the same time wrote an application in writing, whereby the incident of theft was disclosed. On my complaint, attempt to search the vehicle was initiated and at the same time FIR No. 316 of 2013 was registered. I produce attested copy of my application and FIR No.316 of 2013 as Ex PW 8/1 and Ex PW 8/2. (STO it was the job of the IO to place on record the above mentioned documents). On 08.05.2013, I received a phone call from phone No.0342-8309891, on my one of the mobile No.0301-8201313. The person informed me that theft vehicle is with him and he is ready to return it subject to making payment in the sum of Rs.300000/- On the same day I also made phone call to him on the same number through my another No.0331-2514663 to which he responded. I was under the pressure from the High Court to get back the vehicle, even if some payment is made. I agreed to pay Rs. 250,000/- and the caller called me at Bannu. I was ready to go there but the investigation team resisted and restrained me to go here. They suggested me that one constable namely Ghulam Farid and one local namely Shah Khalid will got to make payment and get back the vehicle. I produce the CDR which reflects phone number of caller as well as my phone numbers, which is placed on file. During investigation, the investigation agency was not cooperating with me and I learnt that few sketches of the culprits have been prepared with the assistance of eyewitness, but their arrest was not affected. I made an application to the Incharge ACLC Islamabad on 29.10.2013, informing all facts and non cooperation of investigation officials. I produce attested copy of the said application and say that it is same correct and bears my signature, placed on file. I also produce two sketch of the accused prepared at the instance of the eye witnesses, placed on the file. During course of investigation of the present case, SSP was in contact with me and on 17.12.2013, he asked me to identify the voice of the person. He asked me not to disclose your status, but make certain query for finding the theft vehicle. SSP used his personal mobile phone and he made calls on my phone 0331-2514663. I talked for about 2/3 minutes and asked about one Toyota Corolla car. I did not disclose particulars of the theft vehicle. I asked for return of one Toyota COROLLA car. He assure me that the vehicle will be provided at my place at Islamabad. On 06.08.2013 when police party proceeded to Bannu on the demand of culprits, I was also accompanied with the police party, whereas Ghulam Farid Constable travelled in the bus. I Paid Rs. 100000/- to Ghulam Farid, whereas, Shah Khalid was

Asked to arrange Rs.150000/- and join Ghulam Farid in the way. He did the same. We were continuously in contact with the culprits/ caller, as well as Ghulam Farid. We were also tracking location of culprits. When they were near Takht e Nasrati we lost connection and Ghulam Farid did not pick the call. Last call was received in the evening at about Maghrib prayers, when he informed us that they have met with the person and handed over the amount and after some time they will hand over the vehicle. I and the police party including the IO waited for some time but did not receive any response and therefore, proceeded to the PS Takht e Nasrati, where we went to lodge the FIR. Then attempted to search our persons and in the same area, ASI Manzoor wrote a statement in writing and sent it to PS for formal registration of FIR. I was informed that Fir was registered. On the following, when I was sitting in the office of DPO, the DCO was also there, I received a phone call from one of the culprits, who demanded ransom in the sum of Rs. 5000000/- for release of PC Ghulam Farid and shah Khalid. I on receipt of call, on the speaker of my mobile phone. The conversation was heard by the DPO and the DCO. We asked for some time. After my one day stay, I proceeded to Islamabad."

PW-9 is the statement of Khalid Usman Inspector KBI PS Karak District Karak, who stated on oath which is reproduced here:-

" I was entrusted with the investigation of this case on 07.08.2013. I proceeded to the spot, where I recorded statements of PWs u/s 161 CrPC on the following day, the abductee Shah Khalid informed the complainant party that he is present in Domail District Bannu alongwith dead body of Ghulam Farid Constable. I along with the complainant party went to Civil hospital Domail Bannu, where the abductee Shah Khalid and the dead body of Ghulam Farid was present. The SHO of PS Domail had already prepared the inquest and injury sheet of deceased Ghulam Farid and had sent the dead body for PM examination. In this respect, I obtained the report of SHO Ps Domail and placed it on file. I also obtained the PM report and other documents of the deceased Ghulam Farid and placed them on the file. I summarily interrogated Shah Khalid and handed over the dead body to the complainant party. On 13.08.2013, I prepared the site plan Ex PB at the instance of Shah khali.d I also prepared the sketch of place of recovery of dead body of Ghulam farid deceased and abductee Shah Khalid which is Ex PB 1. I also attached the press clipping of Daily Mashriq which is Ex Pw-9/1. I

Also obtained the list of LRs of deceased. Constable Ghulam Farid which is Ex PW 9/2. I recorded statement of Shah Khalid abductee u/s 161 Cr.PC and also got recorded his statement U/s 164 CrPC vide my application Ex PW 9/3. I issued direction about the addition of section of law vide my memo dated 08.08.2013. I also obtained CDR consisting of two pages suspect call numbers used in the instant case, which is Ex PW 9/4 and another CDR report consisting of 18 pages, which is Ex PW 9/5 I also attached progress report pertaining to this case, which is Ex PW 9/6. In the meanwhile I was transferred and further investigation was entrusted to my successor Falak Nawaz Inspector. Later-on on promotion of Falak Nawaz as DSP, I was again entrusted with the investigation of this case. Three abductees were recovered from the house of Rafi ullah and in this regard, a case FIR no.325, dated 15.10.2014 U/s 365 PPC of PS Domail District Bannu and I summoned abductee Shah Khalid and he correctly pointed out the basement in the house of Rafi Ullah, where they were also confined. In this respect, I prepared the pointation memo which is already exhibited as Ex PW 4/1 and also the sketch of the basement which is Ex PW 9/7. Accused Muhammad Sabeel was arrested by Naqeeb Ullah ASI vide card of arrest dated 25.11.2014, which is placed on judicial file. Who obtained his transit custody from learned JM District Karak and then I formally arrested him in this case. I obtained his police custody and interrogated him. He pointed out the place of occurrence and the basement as well and in this respect I prepared pointation memos dated 14.12.2014. I recorded his statement U/s 161 CrPC and in his statement he disclosed that stolen motorcar was sold to Rizwan S/o Alamgir and Rizwan further sold it to one Muhammad Saeed. I summoned Rizwan, Muhammad Saeed and Rafi Ulalh in this case to join the investigation. I also arrayed them as accused in this case. Accused Muhammad Saeed himself appeared in the PS. I arrested him and issued his card of arrest on 16.12.2014. I obtained his police custody, interrogated him and during the interrogation, he admitted that accused Muhammad Sabeel and Rizwan had sold a motorcar to him two months ago. He further disclosed that when he came to know that the motorcar is stolen theft he returned the same to Rizwan. I through my application Ex Pw 9/8 obtained warrant U/s 204 CrPC against accused Rafiulalh and Rizwan and entrusted the warrant to DFC for execution. The DFC returned the warrant un executed and I through my

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Application Ex PW 9/9 issued process u/s CrPC I also recovered a motorcar No. LEA-5436 from possession of Ishfaq Ahmed, in this respect I prepared recover memo Ex PW 9/10. I got examined this motorcar through FSI and the report of FSI is available on the file and is Ex PW 9/11. But it was not the same motorcar which was stolen in this case and accused Muhammad saeed and Ishtiaq were discharged from this case vide my application U/s 169 CrPC which is placed on judicial file. Accused Shaheed Ullah was also arrested in this case by ASHO. I obtained his police custody and interrogated him and recorded his statement U/s 161 CrPC and he was sent to judicial lock up. All the aforesaid documents are correct and correctly bear my signature. After completion of investigation, I handed over the case file to SHO."

PW 10 is the statement of Shams ur Rehman ASI PS Takht e Nasrati, District karak, who stated on oath which is reproduced here:-

"During the days of occurrence, I was ASHO PS takht e Nasrati, Karak. I have submitted, supplementary challan against accused Shaheed Ullah.

PW-11 is the statement of Muhammad yousaf Inspector Investigation PS MRS Kohat, who stated on oath which is reproduced here:-

" During the days of co-occurrence, I was posted as SHO at PS YKS District karak. Upon receipt of murasila, sent by ASi Manzoor Elahi through Constable Abdul Malik No.6526, I chalked out the FIR in the instant case, whcih is Ex PA. Upon completion of investigation, I submitted complete and supplementary challans against the accused"

PW-12. Is the statement of Qismat Khan ASI PS karak, who staetd on oath which is reproduced here:-

"I have arrested accused Shaheed Ullah in this case, vide card of arrest dated 08.03.2015 and handed over to Khalid Usman inspector/ IO"

PW-13 is the statement of Falak Nawaz DSP CPO Peshawar, who stated on oath which is reproduced here:-

" During the days of occurrence, I was posted as CO KBI Karak. I was entrusted with the investigation of this case on 25.10.2013. On 07.12.2013 it was come in my knowledge that accused Muhammad Ali, Abdul Matin, rizwan Ullah have been arrested in Islamabad in some other cases by the PS New Town

Rawalpindi. They are also interrogated in the instant case by the Islamabad Police. I reached Islamabad CIA Office where the above named accused were confined. On checking the record to that police office, I found that the accused were arrested by them in many arms and 411 PPC cases. I recorded supplementary statement of complainant Maznoor elahi U/s 161 CrPC vide which he charged the accused namely Muhammad Ali, Noor Aslam, Shahid ullah, Sakhi Marjan, Hayatullah, Sabeel and Abdul Haleem. With the permission of concerned Magistrate at Islamabad, I interrogated accused Muhammad Ali, Abdul Matin and Rizwan ullah. Then the accused were sent to judicial lockup Islamabad. After that, I applied for the transit custody of accused. I arrested accused Abdul Haleem on 11.12.2013. Accused Abdul Haleem was serving at TMA Karak, so I informed his bosses too. I obtained police custody of him vide my application Ex PW 13/1. During his interrogation he produced a mobile set Ex PW 6/2 Code No.05967N6 Sr. No. 327285/05/478216/0, Sr no. 357285/05/47817/8 Sr No. CEO 434 alongwith SIM No.0333-9718455 and sealed into parcel vide recovery memo already exhibited as Ex PW 6/1. As per PMD report, there are eight numbers of SIM registered in the name of accused. Abdul Haleem I obtained previous record of accused Abdul Haleem, who was found involved in eleven different other cases. (STO this part of statement is not admissible in the evidence and can not used against the accused as per Qanoon e Shahadat). During the interrogation accused Abdul Haleem was contacted through another mobile set with Judge banking Court Islamabad for the purpose of identification of his voice. In this connection, I prepared a memo report which is Ex PW 13/2. I recorded his statement U/s 161 Cr.P.C. I also recorded statement of some PWs U/s 161 CrPC I arrested accused Hayatullah on 26.12.2013. I obtained his police custody and interrogated him and examined him U/s 161 CrPC I also moved applications for identifications parade of accused namely Hayatullah, Muhammad Ali, Rizwanullah, Abdul Matin and Abdul Haleem, which are Ex PW 13/3 and Ex PW 13/3-1. I applied for the process of 204 CrPC against accused Shahid Ullah, Noor Aslam, Sabeel and Sakheemullah through my application which is Ex Pw 13/4. I also applied for the process of 87 CrPC against accused Sabeel, shahid Ullah, sakheemullah and Noor Aslam through my application which is Ex PW 13/5. On 20.05.2014, I formally

arrested accused Abdul Matin, Muhammad Ali and Rizwanullah. I interrogated and examined them U/s 161 Cr.P.C after obtaining their police custody. I also made addition in the site plan with red ink at the instance of accused Abdul Matin and Muhammad Ali. I also conducted the house search of accused Noor Aslam vide search memo Ex PW 13/6. I bare token some articles in to my possession for the purpose of the process of 88 CrPC. All the aforesaid documents are correct and correctly bear my signature. In the meanwhile, I was transferred and the case for investigation was handed over to another I.O."

PW-14 is the statement of Asif Rasheed Additional District & Sessions Judge Swabi, who stated on oath which is reproduced here:-

" During the days of conducting of ID parade of the accused, I was posted as Senior Civil Judge at Kohat. An application of the IO regarding ID parade of accused Abdul mateen, Rizwan Ullah and Muhammad Ali of this case was marked to me by this court. After receiving the above mentioned application, I made an order on 17.06.2014 and fixed the date 20.06.2014 for the ID parade of the accused. I directed the IO to ensure the presence of abductee and Superintendent District Jail Kohat was also directed to make necessary arrangement for the JD parade. My order dated 17.06.2014 is Ex PW 14/1. On 20.06.2014 I visited the District Jail Kohat and conducted the ID parade of the accused mentioned above through abductee shah Khalid. Abductee Shah Khalid was able to identify accused Abdul Mateen and Muhammad Ali while the he failed to identify accused Rizwan ullah. I have seen my report consisting of our pages, which correctly bears my seal and signature and is Ex Pw 14/2 and my order dated 20.06.2014 is ex PW 14/3.

PW 15 is the statement of Ashfaq Ahmad JM/ civil Judge Kohat, who stated on oath which is reproduced here:-

" An application of the IO regarding the ID parade of accused Hayat ulalh and Abdul Haleem of this case was marked to me by this court. After receiving the above mentioned application, I fixed the dated 27.01.2014 for the ID parade of the accused. I also issued summon in the name of abductee Shah Khalid through SHO for the day of ID parade. On 27.01.2014 I visited the District Jail Kohat and conducted the ID parade of the accused mentioned above through abductee Shah Khalid. Abductee shah Khalid was able to identify accused Abdul Haleem while he

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failed to identify accused Hayat ullah. I have seen my report consisting of two pages, which correctly bears my seal and signature and is Ex PW 15/1 and a certificate in this respect is Ex PW 15/2.

PW 16 is the statement of Nadir Khan SI (Rtd) R/o LAKKI Marwat, who stated on oath which is reproduced here:-

" I am the marginal witness to the search memo Ex PW 16/1. In my presence, the accused namely Abdul Mateen and Muhammad Ali pointed out the spot to the I.O Falak Nawaz inspector, which is situated at Sony Tower Hotel. The contents of pointation memo are correct and it correctly bears my signature. My statement was also recorded by the I.O."

PW-17 is the statement of Janan Habib Inspector CPO Peshawar, who stated on oath which is reproduced here:-

" The instant case was entrusted to me for investigation as per direction of Hon'ble Peshawar High Court on 18.06.2014, through DIG Investigation Asif Zafar Cheema, who also constituted an investigation team headed by DSP Zahir Shah. Visited District Karak in the connection of investigation in the instant case. I inspected the spot situated at Sony Tower hotel. I recorded statement of Khalid Usman inspector and Falak Nawaz Inspector, who are also I.Os in the instant case. I disseminated the information about the suspects among the all police stations of Peshawar. ASI Maqbal Khan of PS Faqir Abad informed me about some suspects arrested by PS Faqir Abad. So I rushed to the PS, where I collected some details about suspect accused namely Sakhim ullah alias Sakhat, Faiz ur Rehman and Wasim ullah, who were also involved in case FIR No.397, dated 30.05.2014 U/s 381-A PPC of PS Faqir Abad, who were sent by the Judicial Magistrate to jail, so I applied for the arrest of accused Sakhim Ullah Asliat Sakhat through Zamima Bay, which was allowed by the Hon'ble Court of ATC 1 Peshawar. I also obtained two days police custody of him. I interrogated him under the supervision of DSP Zahir Khan and also examined him U/s 161 Cr.P.C. the accused also disclosed some names of co accused namely Abdul matin and Muhammad Ali. After the expiry of police custody, the accused was produced before the court for recording of his confessional statement but the accused refused to confess his guilt and was remanded to judicial lock up."

PW-18 is the statement of Javed Hussain SHO, PS Sabir Abad Karak,
Who stated on oath which is reproduced here:-

" In the instant case I have submitted supplementary challan against the accused namely Abdul Matin, Muhammad Ali and Rizwan Ullah on 22.06.2014 when I was SHO of PS YKS Karak which is correct and correctly bears my signature."

PW-19 is the statement of Shah Wali SI PTC Hangu, who stated on oath which is reproduced here:-

" During the relevant time, I was SHO at PS YKS Karak, I have submitted supplementary challan against the accused facing trial as well against the absconding accused U/s 512 CrPC on 19.01.2015."

PW-20 is the statement of Abdur Razaq No.802, PS Khurram Karak, who stated on oath which is reproduced here:-

" I am a marginal witness to the pointation memo Ex Pw 20/1 and Ex PW-20/2 vide which accused Muhammad sabeel pointed out the spots of occurrence in my presence to the IO. Both the memos are correct and correctly bears my signatures. I am also the marginal witness to the pointation memo Ex PW 4/1, vide which the abductee Shah Khalid pointed out the spot/ basement where he along with Ghulam farid abductee was confined. The memo is also correct and correctly bears my signature"

PW-21 is the statement of Shahid Zaman DFC No.581, PS YKS Karak, who stated on oath which is reproduced here:-

" I am a marginal witness to the pointation memo already exhibited as Ex PW 20/1 and Ex PW 20/2, vide which accused Muhammad Sabeel pointed out the spots of occurrence in my presence to the I.O both the memos are correct and correctly bear my signatures. I was also entrusted with the warrants U/s 204 Cr.P.C against accused namely Shaheedullah, Muhammad Sabeel and Hayatullah. I search for the accused in their village and surrounding but they were avoiding their lawful arrest. Hence I returned the warrants un executed alongwith my reports at the back of warrants. The warrants are Ex PW 21/1 to Ex PW 21/3 and my reports are Ex PW 21/4 to Ex PW 21/6. I was also entrusted with the proclamation notices u/s 87 CrPC against accused Shaheedullah and Muhammad Sabeel. I have carried out the proceeding in accordance with law. The proclamation

Notices are Ex Pw 21/7 and Ex 21/8 and my reports are Ex PW 21/9 and Ex PW 21/10. I am also the marginal witness of recovery memo already exhibited as Ex PW 9/10 vide which I.O Khalid Usman secured a motorcar bearing no. LEA-5436 GLI, which was brought by Nakeequllah SI from PS Latamber and produced in PS Karak which was recovered from accused Ishtiaq Ahmad and the vehicle was also wanted in case Fir no.316, dated 16.07.2013, U/S 381-A PS industrial Estate Islamabad."

On closure of prosecution evidence, statements of accused U/S 342 CrPC were recorded wherein they repudiated the prosecution allegation and professed their innocence, they neither wished to produce defence nor they wanted to give statements on oath as contemplated U/s 340 (2) Cr.PC.

I have heard the arguments and have gone through the record with the assistance of learned Sr. PP of this court and learned counsels for the accused.

The learned PP for the state assisted by the counsel for complainant argued that accused are involved in the kidnapping and brutal killing of deceased Constable Ghulam Farid, which created a sense of tear, fear and insecurity in the locality and through the testimonies of the 21 PWs, the guilt of the accused is established and there is no discrepancies in the testimonies of the PWs and the prosecution case stands proved against the accused facing trial and prayed for the conviction of the accused. He argued that PW Shah Khalid had identified the accused namely Muhammad Ali, Abdul Matin and Abdul Haleem during identification parade conducted under the supervision of JMs. He further argued that accused Abdul Matin, Muhammad Ali and Muhammad Sabeel have also pointed out the place of occurrence in the presence of marginal witnesses and this piece of evidence clearly shows the involvement of the accused in the commission of offence and he prayed for awarding of exemplary punishment to the accused.

Conversely the learned counsels for the defence stated that the prosecution has miserably failed to prove their case against the accused. There is no eyewitness of the occurrence, no one has charged the

Accused for the commission of offence, this is a totally concocted and false case created against the accused and the police in order to show their efficiency has made out a case against the present accused and this fact is clear from the evidence of the PWs as such the prosecution has failed to prove their case beyond doubt and prayed for the acquittal of the accused. They argued that the prosecution has attempted to prove that abductee Shah Khalid had identified the accused Muhammad Ali, Abdul Matin and Abdul Haleem during investigation parade conducted by judicial magistrates. They pointed out that PW Shah Khalid has admitted in his statement that police has shown him the photographs of the above mentioned accused in the PS before the identification parade and directed him to identify the accused. They contended that in such circumstances this piece of evidence had lost all its evidentiary value. They further argued that pointation of the spot by the accused is also immaterial without any corroborative evidence and merely on this piece of evidence; They argued that prosecution has totally failed to prove their case and the accused are deserved acquittal.

Admittedly the complainant has not charged any of the accused by their names in a murasila Ex PA. Similarly the abductee Shah Khalid who was released by the accused along with dead body of Ghulam Fariq Constable has also lodged a report which was entered in DD No.22 dated 08.08.2013 of PS Domail District Bannu. The copy of this DD is available on the record as Ex PA/1. Perusal of this report shows that PW Shah Khalid has also not mentioned the name of any of the accused in his report nor has he stated that he can identify the accused by their faces if brought before him later on. It may be pointed out here that another person namely Musawir Khan of District Bannu was also confined in the same placement alongwith PW Shah Khalid and Constable Ghulam Farid and he i.e. Musawir Khan was also released by the accused at the same time. Musawir Kahn also verified the report of Shah Khalid which was recorded in DD No.22 by putting his signature..

Upon it. Musawir Khan also did not disclose the name of any of the accused before the local police of PS domail District Bannu.

The accused Muhammad Ali, Abdul Matin and Rizwan Ullah were arrested by the local police of Islamabad in case FIR No.316 of PS Industrial area Islamabad. They were found suspected being involved in this case and were nominated as accused in this case on 05.12.2013 and were also arrested in this case. The I.o also visited the Islamabad and with the permission of local court of Islamabad, he interrogated them in this case. It is the case of prosecution that above mentioned accused during interrogation and further investigation, disclosed the names of other co accused.

Now I would like to scrutinize the evidence produced by the prosecution during trial and in the light of evidence of the prosecution it would be determined that whether the prosecution is succeeded to prove its case against the accused facing trial.

The complainant Manzoor Elahi ASI has stated in the murasila and his court statement before this Court that Mr. Shahid Shafiq received a call from phone No. 0342-8309891 on his phone number 0301-8201343. PW-8 has belied the statement and mruasila of Manzoor Elahi ASI that he had received a call on his phone number 0301-8201343. PW-13 who has partially investigated the case has admitted that he has not verified that in whose name SIM No.0342-8309891 is registered, however he self stated that this fact was verified by the Islamabad Police and they came to know that this number is registered in the name of one Zeeshan Ahmad S/o Lajbar Shah r/o Mardan. The I.Os of this case have not attempted to locate the said Zeeshan Ahmad or to associate him with the investigation of this case. Non association of Zeeshan Ahmad with the investigation of this case is a serious blow to the case of prosecution because Zeeshan Ahmad would have been in a better position to disclose the facts behind the commission of this offence. It is

Further mentioned in the murasila that when Manzoor Elahi ASI Mr. Shahid Shafique lost the contact with Shah Khalid and constable Ghulam Farid and on 07.08.2013 another call was received by Mr. Shahid Shafiq on his phone number 0305-5333130 from Phone call number 0331-2514663 and a demand of Rs. 500,0000 was made for the release of Shah Khalid and constable Ghulam Farid. The I.Os have also not verified the phone number 0331-2514663 that in whose name this number is registered.

The prosecution have produced Pws Asif Rashid and Ishfaq Ahmad JMs as PW-14 and PW-15 who have conducted the identification parade of accused Abdul Matin, Muhammad Ali and Abdul Haleem. The report of PW-14 regarding the identification parade of Abdul Matin and Muhammad Ali is Ex Pw 14/2. I have already pointed out that accused Muhammad Ali and Abdul Matin were already arrested in case Fir No.316 of PS Industrial area Islamabad and they were nominated as accused in this case on 05.12.2013 and I.O of this case has also visited the Islamabad to interrogate them. Later on correspondence was made through Home and tribal Affairs Department Peshawar with the administration of Islamabad for the transfer of these accused to District Kohat. Their transfer was allowed and they were handed over to the IO of this case on 20.05.2014 and he formally arrested them in this case. One day transit custody was obtained by the JM of Islamabad and on next day i.e. 21.05.2014, they were produced before this court and ten days police custody was granted. Again two days police custody was obtained and thereafter they were sent to Judicial lockup. So the accused Abdul Matin and Muhammad Ali were in the custody of local police of PS YKS district Karak from 21.05.2014 to 02.06.2014. During this period they were produced before the court for three times and there is nothing on the file that I.O has tried to conceal their identify or their faces during their production before the court. Their identification parade was conducted on 20.06.2014 i.e. after about one month of their formal arrest in this case. However before their formal arrest in this case, the I,O has also met

Them in Islamabad and has interrogated them. The Star witness of identification parade is Shah Khalid PW-4 and he admitted that he has not given the descriptions and features of the accused in his statements recorded u/s 161 and 164 CrpC and he self stated that it was night time and he was not able to identify the accused. He further admitted that photographs of the accused were shown to him in the PS by the police prior to identification parade and the police directed him to identify the accused as to enable them to convict the culprits. So in these circumstance the identification parade of both these accused has got no evidentiary value.

Similarly the identification parade of Abdul Haleem was conducted by PW-15 and his report is available on the file and his report is ex PW 15/1 He was arrested in this case on 11.12.2013 and on next day his seven days police custody was obtained. Again his five days police custody was obtained and was sent to judicial lockup on 24.12.2013. So this accused remained in police custody from 11.12.2013 to 24.12.2013 and during this period they were produced before the court for three times and there is nothing on the file that I.O has tried to conceal his identify or his face during his production before the court. His identification parade was conducted on 27.01.2014 i.e. after about one month and sixteen days of his arrest in this case. The Star witness namely Shah Khalid has also admitted that his photographs were shown to him by the police before the I.D parade and the police has directed him to identify him during the identification parade. Furthermore PW Shah Khalid during identification parade has not attributed any specific role to the accused identified by him. He has not disclosed that whether these accused have put him and Ghulam Farooq Constable in their vehicle from Sony Tower Hotel or these accused have confined them in the basement. So without any specific role to any of the accused, the process of identification parade is without any legal value. Hence am not inclined to consider the identification parade of the accused against them.

It is also the case of prosecution that accused Muhammad Sabeel has pointed out the place of Sony tower Hotel in District Karak from where PW Shah Khalid and deceased Ghulam Farid were boarded in the vehicle and the basement in District Bannu in which the PW Shah Khalid and deceased Ghulam Farid were confined. In this regard the pointation memos are available on the file as Ex PW 20/4 and PW 20/2. The marginal witnesses of these pointation memos are police officials and there is no explanation on the part of I.O that why he has nor associated any independent on the pointation proceedings. Furthermore this piece of evidence is not corroborated by any other evidence and I am not inclined to consider this single piece of evidence without any corroboration for the conviction of the accused in a case of capital punishment. The IO has stated that accused Muhammad Sabeel disclosed during investigation that he had sold the stolen motorcar to Rizwan and the Rizwan further sold it to Muhammad Saeed. Muhammad Saeed admitted that the motor car was sold to him and when he came to know that it is a stolen motor car then he returned it to Rizwan. This motor car was later on recovered from the possession of Ishtaiq Ahmad and it was examined in the FSL but it was found that it is nor the same motor car which was stolen from Islamabad. Thus accused Ishtaiq Ahmad and Muhammad Saeed were discharged by this court on the request of I.O and Sr. PP of this court through order dated 24.02.2014. The accused Muhammad Sabeel has not confessed his guilt before any court of law and nothing incriminating articles were recovered from his possession or pointation.

Similarly it is also the case of prosecution that accused Abdul Matin and Muhammad Ali have also pointed out the place of Sony Tower Hotel and in this regard the pointation memo is available on the record as Ex Pw 16/1. Again the marginal witnesses of this pointation memo are police officials and there is no explanation on the part of IO that why he has not associated any independent person to the pointation proceedings. Furthermore this piece of evidence is not corroborated by any other evidence and I am not inclined to consider this single piece of

evidence without any corroboration for the conviction of the accused in a case of capital punishment. These accused have not confessed their guilt before any Court of law and nothing incriminating articles were recovered from their possession or pointation. The corporative evidence in the shape of identification parade has already been discarded by me.

There is also another piece of evidence in shape of pointation memo Ex Pw 4/1 and according to this pointation memo PW Shah Khalid pointed out the basement situated in the house of absconding accused Rafi Ullah. As accused Rafi Ullah is still absconding therefore this piece of evidence would be consider against him after his arrest.

So far as other accused namely Rizwan ullah, Shaheed Ullah and Hayat Ullah are concerned, there is not a single piece of evidence against them. They were only charge on the basis of some hearsay evidence or on the basis of statements of their co accused recorded u/s 161 CrPC Thus no legal evidence is available against these accused.

Although the prosecution has produced 21 witnesses during the trial but I have discussed only that evidence through which the prosecution has tried to connect the accused with the commission of offence. Rest of the evidence is formal in nature and it does not connect the accused with the commission of offence therefore these there is no need to discuss the rest of the evidence of the prosecution.

The nutshell of the above discussion is that the case of the prosecution is full of doubts and the prosecution has miserably failed to prove its charge against all the accused. Hence the accused facing trial namely Abdul Matin, Abdul Haleem Rizwan Ullah Muhammad Sabeel, Muhammad Ali Shaheed Ullah and Hayat ullah are acquitted from the charges leveled against them. Accused Abdul Matin, Abdul Haleem, Muhammad Sabeel and Muhammad Ali are in custody and they are directed to be released forthwith if not required in any other case. Accused Rizwan Ullah, Shaheed Ullah and Hayat Ullah are on bail and their sureties are absolved form the liabilities of bail bonds.

There exists a good prima facie case against the absconding cp-accused namely (i) Noor Aslam S/O Nasrullah R/O Kari Dand, Karak (ii) Sakhim Ullah alias Sakht S/O Zahir Ali R/O Tarkhobi, Domail, Bannu (iii) Rizwan S/O Alamgir Khan R/O Azeem Kaly, Domail Bannu and (iv) Rafiullah S/O Noor Dil R/O Mir Khawas Banda, Takhti Nusrati, Karak. They are declared proclaimed offenders and perpetual warrants of arrest are issued against them and their names should be entered in the relevant register. Case property if any kept intact till arrest and trial of absconding co-accused.

File be consigned to Hon'ble Peshawar: High Court Peshawar.
U/S 25(2) ATA 1997 (Act No XXVII of 1997).

Sd/-

ANNOUNCED
SEPTEMBER 16th, 2015

(GOHAR REHMAN)
Judge Anti-Terrorism Court,
Kohat Division, Kohat.

CERTIFICATE

Certified that this judgment consist of (21) pages, every page has been signed and corrected by the undersigned whenever necessary.

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7-3-16

**IN THE COURT OF MUNAWAR KHAN
ADDITIONAL SESSION JUDGE-I, BANNU**

PPC Case No.: 02 of 2014
Date of Institution: 14.03.2014
Date Of Decision: 07.03.2016

The StateVersus... 1. Akhya Jan (31/32 years)
Son of Bahader Khan
2. Hayat Ullah (28/29 years)
Son of Mirza Ayub
Residents of Sheral Khal Painsda
Khel, Domel District Bannu
.....(Accused)

Case FIR no 338 dated 30.12.2013 under sections
420/468/471/472/474 PPC, Police station Domel, Bannu

JUDGMENT:-

1. Accused Akhya Jan and Hayat ullah faced their trial before this court in the instant case.
2. Brief facts of the case are that Nabi Shah Khan SHO P.S Domel, Bannu lodged a report to the effect that there was information that a suspected white colour motorcar bearing registration No. LEF-4242 Model 2007 Corolla is moving in the jurisdiction of P.S Domel Bannu. That on 19.11.2013, he made barricade/ Nakabandi on Bodin Khel road. That after a while a motorcar white in colour having registration # LEF-4242 Model 2007 Corolla came fro Bodin khel side which was signaled to stop. That two persons were present in the said motorcar, who were deboarded. That the person sitting on the driving seat disclosed his name Hayat ullah son of Mir Nawaz while the other one disclosed his name as Akhya Jan son of Bahder Khan. That the said Akhya Jan

Claimed the ownership of the said Motorcar. That the motorcar was checked but nothing incriminating was found therein. That accused Akhya Jan produced one registration copy in the name of hafiz Muhammad Asghar son of Muhammad Yasin resident of House no.10-BST-225//G, Madina Street Gulshan Colony Lahore wherein a motorcar bearing chassis no. NZE-1206070776 and Engine No X607480 Model 2007 Corolla was entered. That the motorcar was suspected to be a stolen one, therefore, the motorcar (Ex.P1) alongwith registration copy (Ex.P2) was taken into possession through recovery memo (Ex. PW4/1) The accused Akhya Jan was arrested U/s 54 Cr.PC he then returned to the P.S alongwith the accused and case property and drafted Naqal mad (Ex. PW 4/2) he then handed over the Naqal Mad No. 13 to Saad Ayaz Khan ASi for inquiry of the instant case. Hence, the instant case.

3. After completion of investigation, complete challan was submitted and entrusted to this court for trial.
4. Accused facing trial Akhya Jan and Hayat ullah were summoned. After compliance of provisions of Section 265-C CrPC charge was framed against them to which they pleaded not guilty and claimed trial.
5. The prosecution in order to prove its case produced as many as four (04) witnesses. The gist of which is as under:-

Pw-1 is Abdul Majeed Khan ASI, who conducted trial investigation in the instant case.

PW-2 Abdur Rashid Khan Asl, who is marginal witness to recovery memo (Ex PW 2/1).

PW-3 is Said Azan Khan SI, who conducted investigation in the instant case.

PW-4 is Nabi Shah Khan SHO (Complainant), who reiterated the story of his report.

6. After conclusion of the prosecution evidence, statements of accused Akhya Jan and Hayat Ullah were recorded U/S 342 CrPC. They again denied the allegations leveled against them, however, they neither opted to be examined on oath U/s 340 (2) CrPC nor wished to produced defense evidence.
7. PP for the state argued that prosecution has proved its case against the accused beyond reasonable doubt. That according to report of MRA (Ex PW 2/2), the registration book produced by the accused was forged and fabricated. That another motorcar was registered in the office of MRA in the name of One Mst. Atia Fazi. That the accused by affixing a forged number plate and preparing forged documents on the motorcar, used the same by deceitful means. That the MRA vide his report dated 23.11.2013 has clearly written on the Registration Book/ Registration Certificate as "Bogus/Forged". That the accused has committed an offence is against the society at large which also is causing great loss to the public exchequer. That such like vehicles are also used in terrorist activities which is now a days on peak in this province

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Generally and District Bannu particularly. He requested for awarding punishment to the accused facing trial according to law.

8. Learned defense counsel argued that prosecution has not been able to prove the case against the accused facing trial beyond reasonable doubts. That a letter (Ex Pw 2/2) dated 22.11.2013 was issued by the DPO, Bannu to the MRA Lahore for verification of the Registration Book of the motorcar. That instead of sending the said letter through proper channel, the same was taken by an unauthorized/ unconcerned police official to the office of MRA Lahore and a report was illegally obtained from the said office. That the said report cannot be used against the accused. That the local police without obtaining prior permission from the judicial Magistrate, proceeded with the matter which is malafide on the part of the local police. That the motorcar in question has already been returned on superdari by this court to its lawful owner namely Ajmal Khan. That these accused facing trial cannot be connected even remotely with the commission of offence. He requested for acquittal of accused facing trial.

9. Perusal of record would show that on 19.11.2013 Nabi Shah Khan SHO (PW-4) seized a motorcar having affixed a number plate bearing registration No LEF 4242. Accused Hayat Ullah was found on the driving seat of the motorcar while accused Akhya Jan was found sitting with him in the said motorcar. At the time of seizing, accused Akhya Jan claimed the ownership of the motorcar as per report Naqal mad (Ex PW 4/2). Permission as sought from the concerned judicial magistrate,

Bannu for conducting inquiry U/S 523/550 CrPC vide application (Ex Pw 3/4). The DPO vide letter dated 22.11.2013 sought verification of the documents of the vehicle/ motorcar. According to Motor Registration Authority. Lahore dated 23.11.2013 (Ex PW 2/2), the registration book/ certificate presented to him was forged while originally the said registration number was allotted to a motorcar registered in the name of one Mst. Atia faiz wife of Faiz Muhammad Khan of 22-Tepo Block New garden town Lahore. During trial, this court returned the motorcar to one haji Ajmal Khan on Superdari vide order dated 19.05.2015. On the previous date, the accused were directed to produce the motorcar alongwith registration certificate, which they produced today.

10. Perusal of registration certificate reveals that it has been issued to one hafiz Muhammad Asghar. The motor registering authority Lahore has clearly written on the same as "Bogus". The accused during the whole trial have failed to produce any defense witness that they have acquired the motorcar in question through lawful means. On the registration certificate, it has clearly been written that original file returned to owner. The accused were asked today to produce the original file, which they failed to produce and stated at the bar that they are not in possession of original file of the motorcar. Meaning thereby that the accused by affixing a forged/ counterfeit number plate and by preparing forged documents, were plying the motorcar on road. Offence U/s 468 & 474 PPC have been proved against the accused facing trial beyond any shadow of doubt. Accused

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have also been charged U/s 420 & 474 PPC. The said offence is not attracted to the facts and circumstances of the present case. Such like offence, i.e. plying of non custom paid or stolen vehicles in District Bannu has become order of the day. Such vehicles are also usually used in terrorists activities. The accused are unable to answer that wherefrom the motorcar in question was brought. How it was purchased by them as they are not in possession of any other document except the forged registration certificate, mentioned above. Accused Hayat Ullah was found on the driving seat of the car while accused Akhya Jan claimed its ownership at the time of seizer of the vehicle. Benefit of any procedural defect in the investigation cannot be given to the accused.

11. The prosecution has proved its case against the accused beyond reasonable doubt. Accused facing trial Akhya Jan and Hayat Ullah are therefore, convicted U/s 468 PPC for a term of 03 years Rigorous imprisonment both. Both of them also to pay a fine of Rs.1,00,000/- each. In default whereof, they shall further undergo Two months S.I each. Both they are also convicted and sentenced for a term of 03 years Rigorous Imprisonment U/S 472 PPC. Each of them also to pay a fine of Rs. 1,00,000/-. In default whereof, they shall further undergo 02 months. S I. All the convictions and sentences shall run concurrently. Accused facing trial are on bail, be taken into custody and sent to the judicial lock up alongwith warrants of conviction. Benefit of

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Section 382-B Cr.PC is also extended in favour of both the accused. The motorcar is confiscated to the state.

12. Motorcar alongwith key and registration Book/ Registration Certificate is taken from them and handed over to the Naib Court with the direction to deposit the same in the concerned Police Station. The same be dealt with in accordance with law, after expiry of period of appeal/ revision.

13. Copy of this judgment is given to each of the convict free of cost within the meaning of Section 371 Cr.PC. A copy of these findings be sent/ forwarded to the incharge of the prosecution in the district within the meaning of section 373 Cr.PC.

14. File be consigned to the Record Room after its necessary completion.

Announced

07.03.2016

Munawar Khan
Additional Sessions Judge I
Bannu

CERTIFICATE

Certified that this judgment consists of seven (07) pages. Each page has been read over, corrected wherever necessary and signed by me.

Munawar Khan
Additional Sessions Judge I
Bannu



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11-3-16

BEFORE THE PESHAWAR HIGH COURT BANNU BENCH

Criminal Appeal no. 75-B/2016

1. Akhya Jan S/o Bahadar Khan
 2. Hayat Ullah S/o Mirza Ayub
 3. Resident of Sheral Khel Painda Khel, Domel District Bannu
(Presently Confined in Central Jail, Bannu).
-(Accused/ Appellants)

VERSUS

1. The State through AG, Bannu Bench
 2. Nabi Shah Khan SHO Police Station Domel, Bannu.
-(Respondents)

CASE FIR NO.338 DATED 30.12.2013 U/S
420/468/471/472/474 PPC, POLICE STATION DOMEL BANNU.

Criminal Appeal Under section 410 Cr.P.C 1898 against the impugned Order and judgment dated 07.03.2016 of Additional Sessions Judge I Bannu passed in case No.02/PPC of 2014 whereby the appellants/ accused were convicted under section 468 PPC for a term of 03 years rigorous imprisonment. Both of them also to pay a fine of Rs. 1,00,000/- each. In default of whereof, they shall further undergo two months S.I they are also convicted and sentenced for a term of 03 years rigorous imprisonment U/S 472 PPC. They also to pay a fine of Rs. 1,00,000/- in default whereof, they shall further undergo 02 months S.I All the convictions and sentences shall run concurrently. Benefit of section 382-B CrPC is also extended in favour of both the accused.

Prayer

On acceptance of the instant appeal, the impugned judgment dated 07.03.2016 of the learned trial Court may very graciously be set aside by acquitting the appellants from the charges leveled against them.

Respectfully Sheweth:-

FACTS:-

1. Brief facts as alleged in FIR are, that accused/ appellants have been charged for the offence as mentioned in the above captioned case FIR, albeit falsely. (Copy of FIR is annexure "A").
2. That the appellants/ accused were arrested. After their arrest Challan as submitted against them by the prosecution in the court learned ASJ-I, Bannu. They were summoned and provision of Section 265-C CrPC was complied with. Charge was framed to which they pleaded not guilty and claimed trial, where after the case was posted for prosecution evidence.
3. That after completion of trial the learned trial court convicted the appellants/ accused as mentioned above vides judgment dated 07.03.2016. (Attested Copy of judgment of ASJ-I Bannu dated 07.03.2016 is Annexure B).
4. That feeling aggrieved from the impugned judgment of the learned trial Court, the appellants now

Respectfully approaches this honourable court for setting aside the impugned judgment and to seek their acquittal, inter alia, on the following grounds:-

GROUNDS

1. That accused are innocent and falsely implicated in present FIR.
2. That the impugned judgment is against the law and facts and hence not tenable in the eyes of law.
3. That the decision of Additional Sessions Judge is perverse and not according to law.
4. That evidence on record has not been properly appreciated by trial Court which causes injustice with the appellants.
5. That the Pws have made dishonest improvements in their court's statements and also materially contradicted each other but the learned trial court respectfully peaking, ignored the contradictions and fall into an error by not extending the benefit of doubt to appellants of the said doubt.
6. That there was full dint in the prosecution case and had created lot of doubt.
7. That prosecution has been totally failed to establish any charge against the accused petitioner.
8. That the impugned judgment is the result of mis reading, non reading, mis appreciation and non

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Appreciation of evidence and thus requires appraisal of this honorable court.

9. That there are quite contradiction in the statement of all the police witness.
10. That the witnesses were interested and amicable to the case of prosecution.
11. That prosecution has miserably failed to establish any charge against the accused.
12. That that the counsel of appellant may graciously allowed raising additional grounds at the stage of argument.

It is therefore humbly prayed that on acceptance of the instant appeal, the impugned judgment dated 07.03.2016 of the learned trial Court may very graciously be set aside by acquitting the appellants from the charges leveled against them.

Dated 11.03.2016

Appellants

Through their counsel

Khush Amir Khattak
Advocate High Court

CERTIFICATE

Counsel for appellant do hereby certify that no such like appeal has been moved earlier before this august Court.

Khush Amir Khattak
Advocate High Court

رحم درخواست

بکھنور جناب والا شان ریجنل پولیس آفیسر صاحب بنوں ریجن بنوں۔

عنوان بحال فرمانے ملازمت سائل بہ عہدہ کنسٹیبل جناب DPO صاحب بنوں

بحوالہ OB نمبر 1453/EC/31.12.13 بے بنیاد اور من گھڑت الزامات ذیل کے سرسری اور یکطرفہ کارروائی کے تحت ملازمت سے ڈسمس کر کے سائل کیساتھ ظلم کیا ہے۔

الزامات۔ ۱۔ من کنسٹیبل کی شہرت داغدار ہے۔ غیر سماجی سرگمیوں میں ملوث رہنے اور نان کسٹم پیڈ گاڑیوں کا کاروبار اور مسروقہ گاڑیوں کی خرید و فروخت میں ملوث پایا گیا ہوں۔

۲۔ علاوہ ازین مقدمہ FIR نمبر 283 مورخہ 02.08.2013 جرم PPC 365-A-302/353-109 تھانہ تخت نصرتی کرک میں نامزد ہو کر مقدمہ ہذا میں گرفتار ہوا ہوں۔

جناب عالی۔

سائل Ex کنسٹیبل حیات الہی نمبر 681 آنجناب کے حضور حسب ذیل حقائق کی روشنی میں معیاد اپیل گزرنے پر رحم درخواست پیش کرتا ہے۔

۱۔ سائل مورخہ 15.4.2001 کو پولیس فورس میں بہ عہدہ کنسٹیبل بھرتی ہوا۔ ریکروٹ ٹریننگ مکمل کر کے ضلع بنوں میں مختلف مقامات تھانہ جات پر تعینات رہا۔

۲۔ سال 2013 میں سائل کو درانی کالج ٹاون شپ بنوں کے سکیورٹی گارڈ انچارج کی ذمہ داری دی گئی۔ کہ اس دوران صوبائی گورنمنٹ کے کرپشن مہم بخلاف کارروائی کے تحت بے بنیاد اور من گھڑت الزامات پر مبنی چارج شیٹ جاری ہوا۔ اور DSP نونگ سید لیاقت خان انکو آری افسر مقرر ہوا۔

۳۔ میں نے ان عائد شدہ قیاس آرائی کی اپنا تفصیلاً جواب دیا۔ انکو آری افسر نے اپنے بند کمرہ میں سرسری انکو آری کرتے ہوئے صرف SRC اور QASI برائے قلمبندی بیانات طلب کئے جنہوں نے میری موجودگی میں میری سرور ریکارڈ بارے اندراجات تفصیلات بتلائے جن میں عائد الزامات کا کوئی تذکرہ نہ تھا۔ بدین وجہ میری طرف سے ان پر جرح بے سود تھا۔

۴۔ انکوائری آفس نے ایسا کوئی گواہ نہ پایا۔ جو عائد الزامات کی تائید کر سکتا تاکہ میں جرح کرتا نہ ہی کوئی ایسا ٹھوس ثبوت دستاویزی یا واقعاتی شہادت اکٹھا کر سکا۔

۵۔ EO صاحب نے اپنے فائنڈنگ رپورٹ میں میرے خلاف لفظ سفارش کا انتظام کر کے میرے متعلق ملازمت سے جبراً ریٹائرمنٹ کی تجویز DPO صاحب کو تحریر کی۔ اور فائل مورخہ 21.12.13 کو برائے حکم ارسال کی۔

۶۔ مورخہ 7.8.13 ضلع کرک حدود میں ہائی وے پر واقع "سونی ٹاور ہوٹل" سے دو افراد کی اغواہیگی ہوئی تھی جس میں ایک مغوی اسلام آباد پولیس کا کنسٹیبل غلام فرید اور ایک کوہاٹ کارہائشی شاہ خالد شامل تھے۔ اس ہوٹل کے مالکان شاہد اللہ اور حیات اللہ (برادران) پسران میر قلم ساکنان ضلع کرک تھے۔ جو 24 گھنٹہ ہوٹل کی انتظام انصرام کے لئے حاضر باش رہتے تھے۔ مغوی گان میں سے کنسٹیبل غلام فرید قتل ہوا جبکہ دوسرے کو نعش کے ہمراہ آزاد کیا گیا تھا۔ جسکی رپورٹ تھانہ تخت نصرتی میں FIR نمبر 283 نمبر خلاف نامعلوم ملزمان درج ہوا تھا۔

۷۔ مورخہ 26.12.13 اچانک تھانہ ڈومیل پولیس کی مدد سے ضلع کرک پولیس نے مجھے گرفتار کر کے ضلع کرک لے گیا۔ پہلے کرک جیل اور بعد میں مجھے کوہاٹ جیل منتقل کیا گیا۔

۸۔ مورخہ 23.1.14 کوہاٹ جیل میں میری ہمراہ ایک دیگر شخص عبدالحلیم گل کی شناخت پریڈ کرانے کا بندوبست جوڈیشل مجسٹریٹ نمبر 5 کی سربراہی میں منعقد ہوا۔ ہم دونوں کو 17 افراد کی صف میں کھڑا کر کے مغوی ادعی شاہ خالد کو طلب کیا۔ جس نے عبدالحلیم گل پر ہاتھ رکھ کر شناخت کیا۔ اسکے بعد مجسٹریٹ صاحب نے بار بار میری پوزیشن بدلتے ہوئے مدعی کو شناخت کے لئے طلب کیا لیکن مدعی شاہ خالد میری یا کسی اور شخص کی شناخت نہ دے سکا۔ جو وقوعہ کا ملزم ہو۔ (کاپی لف ہے)۔

۹۔ شناخت پریڈ میں عدم شناخت کی بناء پر عدالت کی طرف سے مجھے ضمانت پر رہائی کی رعایت دی گئی۔ بر ضمانت رہائی پر میں حاضری درج کرانے OASI اور SRC صاحبان کے پاس آیا تو مجھے بتایا گیا۔ کہ محکمانہ کارروائی میں من کنسٹیبل کوڈ سمس کیا گیا ہے۔ نقل حکم حوالہ کیگئی۔ اور ہدایت ملی کہ اس وقت تک من کنسٹیبل اپیل نہیں کر سکتا جب تک زیر سماعت مقدمہ فیصلہ نہ ہو۔ کیونکہ حکم برخاستگی میں اس مقدمہ کا ذکر درج ہے۔ جو اس ہدایت پر عمل ہوا تھا۔

۱۰۔ مورخہ 16.9.15 عدالت دہشتگری ضلع کوہاٹ سے بعدم ثبوت جرم مجھے بری کیا گیا (کاپی فیصلہ عدالت لف ہمراہ قابل ملاحظہ ہے)۔

عالی جاہ۔ محکمانہ کاروائی کرپشن ایک قیاس آرائی ہے عائد الزامات ایک مفروضہ جسکی کوئی حقیقت نہیں۔ انکواری افسر نے ایسا کوئی ٹھوس ثبوت واقعاتی یا دستاویزی شہادت صفحہ مثل پر نہیں لایا ہے۔ جا عائد الزامات کی تائید / تصدیق میں ہو۔

جناب DPO صاحب بنوں نے ان کرپشن الزامات بارے مجھے کوئی فائل شوکار جاری نہیں کیا جو انکواری کا تقاضہ ہے۔ دوسرا یہ کہ مقدمہ اغوائیگی / قتل بارے مجھے علیحدہ شوکار یا چارج شیٹ جاری کرتا تا کہ میں اپنی بے گناہی بارے اپنا معقول جواب پیش کرتا۔ لیکن جناب DPO صاحب نے میرے ساتھ ظلم کر کے قواعد ضوابط 1973 آئین کی خلاف ورزی کرتے ہوئے میرے اور بال بچوں کی مستقبل کو تباہ کرنیکی کوشش کی ہے۔ جو سراسر ظلم اور نا انصافی ہے۔

لہذا بعد گزرنے معیاد اپیل کمترین آنجناب سے رحم درخواست کرتا ہے۔ کہ مندرجہ بالا بے ضابطہ کاروائی کا کالعدم فرما کر بندہ کو واپس اپنی ملازمت بعدہ کنشیل پر بحال فرمانے کا حکم فرمایا جاوے۔ کیونکہ عدالتی چارہ جوئی کی استطاعت نہیں رکھتا ماتھت پروری کی واثق امید رکھتا ہوں۔

العارض

سائل EX کانشیبل حیات اللہ نمبر 681 ضلع بنوں ریگولر پولیس

موبائل نمبر 0300-5855859



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فائنڈنگ رپورٹ

عنوان۔ حیات اللہ کنسٹیبل نمبر 681 ضلع بنوں پر سماج دشمن سرگرمی کے الزام پر اور بحوالہ مقدمہ 283 مورخہ 07.08.2013 جرم 365-A302/353-109PPC تھانہ تخت نصرتی کے سلسلہ میں سابقہ جناب DPO جناب محمد اقبال خان نے بحوالہ OB-1453/31.12.2013 ڈسمس (برخواست) کیا ہے۔

جناب عالی۔ جس سلسلہ میں بغور سابقہ انکوائری اور مقدمہ فائل ملاحظہ ہوا کنسٹیبل مذکورہ کی انکوائری لیاقت شاہ DSP صاحب نے انکوائری کی۔ دوران انکوائری الزامات ثابت نہ ہوئے۔ مورخہ 07.08.2013 کو ضلع کرک تھانہ تخت نصرتی کے علاقہ میں گنام مقدمہ درج رجسٹر ہوا تھا مورخہ OB-1453 مورخہ 31.12.2013 کو محکمہ پولیس سے ڈسمس کیا۔

مقدمہ بالا کی سماعت شروع ہوئی مجسٹریٹ صاحب کی وساطت سے ملزمان کی جیل میں باضابطہ شناخت پریڈ ہوئی حیات اللہ مذکورہ بمعہ دیگر ملزمان کی شناخت پریڈ ہو کر ملز میت ثابت نہ ہوئی۔ اور مجسٹریٹ صاحب نے عدم شناخت ملزمان کی رپورٹ عدالت کو پیش کی۔ عدالت نے پہلے ملزمان کو ضمانت پر رہا کیا۔ اور بعدہ مقدمہ میں جملہ ملزمان کو باعزت طور پر مقدمہ سے بری کر کے جرائم بالا سے بالکل مستثنیٰ قرار دیا۔ سابقہ انکوائری آرڈر ڈسمس شناخت پریڈ و فیصلہ عدالت وغیرہ جملہ ریکارڈ ہمراہ لف انکوائری ہے کہ وہ انکوائری کوئی ایسا ثبوت کہ کنسٹیبل حیات اللہ کو اتنی بڑی سزا دی جائے سامنے نہیں آیا کہ کنسٹیبل حیات اللہ کو قصور وار ٹھہرایا جا کر محکمہ سے ڈسمس کیا جاتا۔ لہذا مذکورہ کے خلاف الزامات ثابت نہ ہونے کے باعث دوبارہ reinstate کئے جانے کی سفارش کی جاتی ہے۔

ایس پی انویسٹی گیشن

لکی مروت

POLICE DEPARTMENT.

BANNU REGION

ORDER.


My this order will dispose off the Denovo enquiry in respect of Ex- Constable Hayatullah No. 681 of Bannu District Police against the order of Major punishment of his dismissal from service, passed by DPO/Bannu vide OB NO.1453 dated 31.12.2013 for committing the following omissions:-

1. That he was charge sheeted for the misconduct communicated to you during departmental proceedings, the gist of which is that he had a tainted reputation and remained involved in anti social activities. He also remained involved in the business of stolen and non custom paid vehicles.

SP/Invest Lakki was appointed for Denovo proceedings, who in his findings, exonerated the said Police Official of the charges. Service Record of the appellant was thoroughly perused and the appellant was heard in orderly room on 29.3.2016.

Therefore, I, Muhammad Tahir, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusal the record and hearing the appellant in orderly room on 29.3.2016 am agreed with the Enquiry Officer. Therefore, the aforementioned order passed by DPO/Bannu is hereby set-aside.

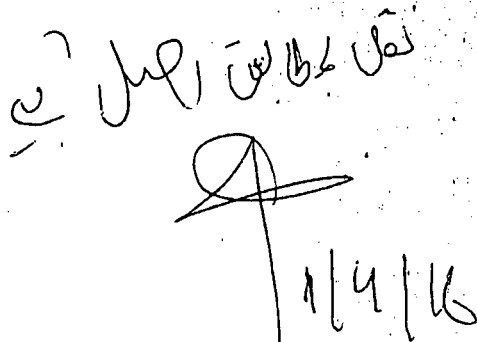
Order Enounced.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 997 /EC, dated. 29/3/2016. 4/29/16

Copy to :-

- The District Police Officer, Bannu for information and n/action.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

بخدمت جناب ریجنل پولیس آفیسر ضلع بنوں

درخواست دربارہ حکم دینے DPO ضلع بنوں کہ وہ من سائل کنشیل نمبر 681 کو بمطابق حکم نمبر 997 مورخہ 29.3.16 کو بحال کرنے اور سائل کو تنخواہ بھرتی مراعات دینے کے احکامات صادر کریں۔

جناب عالی۔ سائل ذیل عرض کرتا ہے۔

۱۔ یہ کہ من سائل آپ جناب کے زیر سایہ کنشیل اپنے فرائض انجام دے رہا تھا کہ سابقہ DPO صاحب نے من سائل کو اپنی ملازمت سے برخاست کیا۔ من سائل نے آپ جناب کے پیش کر بحالی کی درخواست کی دی۔ اور آپ جناب کے پیش رو محمد طاہر خان نے من سائل کو مورخہ 29.03.2016 کو اپنی ملازمت پر بحال کیا ہے۔

۲۔ یہ کہ تاحال موجود DPO صاحب نے من سائل کی بحالی کے احکامات صادر نہ کئے ہیں جو کہ من سائل کی قانونی حق ہے۔

لہذا استدعا ہے کہ بوجوہات بالا سائل کی بحالی اور تمام سابقہ موجودہ مراعات DPO صاحب بحال کرنے کے احکامات صادر فرمایا جائے۔
مورخہ 30.06.16

حیات اللہ ولد میرزا ایوب خان کانٹھیل 681 پائندہ خیل ڈومیل بنوں

11101-7687811

03005855859

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POLICE DEPARTMENT.

BANNU REGION

ORDER.

Ex-Constable Hayatullah No. 681 of Bannu District Police submitted a Mercy Petition to Mr. Muhammad Tahir the then W/RPO-Bannu Region against the order of Major punishment of his dismissal, passed by DPO/Bannu vide OB: No. 1453 dated 31.12.2013 for committing the following omissions, upon which, a thorough re-enquiry and report within 15-days was asked from SP/Invest Lakki:-

Accordingly SP/Invest Lakki submitted his findings, wherein the said Police official was exonerated of the allegations. The said Police official was heard in orderly room on 29.3.2016 and finally re-instated into service and his dismissal order was set aside vide this office Order Endst: No. 997/EC dated 29.3.2016.

Later on, the said Police official submitted an application to the undersigned for his re-instatement by DPO/Bannu, which was sent to DPO/Bannu for comments. The DPO/Bannu vide his Memo: No. 12481 dated 21.7.2016, wherein the said re-instatement order of the official concerned has been recommended for reconsideration, being the official concerned is of tainted reputation, involvement in anti-social activities, operating business of stolen vehicles and arrest of in case FIR No. 283, dated 7.8.2013 u/s 365A/302/353/109 PPC PS: Takht-e-Nusrati, District Karak.

Therefore, I, Muhammad Ali Khan PSP, Regional Police Officer, Bannu Region, Bannu In exercise of the powers vested in me, am agree with the comments of DPO/Bannu. Hence, the earlier order of this office vide Endst: No. 997/EC dated 29.3.2016, wherein Ex-Constable Hayatullah was re-instated is reviewed and the application/appeal of Ex-Constable Hayatullah is filed being badly time barred as well as the tainted record of the official.

Order Enounced.

Attasul

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*C.T.C
Taroon*

o/s

(Muhammad Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 2101 /EC, dated. 01/8/2016. *28/7/16*

Copy to :-

- The District Police Officer, Bannu for information and n/action w/r his office Memo: No. referred above.

B

o/s

(Muhammad Ali Kh
Regional Police C

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IN THE PESHAWAR HIGH COURT,
BANNU BENCH

(Judicial Department)

Cr.A No.75 -B of 2016

Akhya Jan & Hayatullah
Vs.
The State & another.

J U D G M E N T

Date of hearing 21.12.2016

Appellant (s) by: Akhya Jan by M. Adangis
Khan and Khosh Ameer Khattak Advocate

Respondent State by Shahid Hameed
Qureshi Addl. Advocate General.

ISHTIAQ IBRAHIM , J.- The appellants through present criminal appeal preferred under section 410 Cr.P.C has impugned the judgment dated 07.03.2016, passed by the learned Additional Sessions Judge-I, Bannu, whereby they were convicted and sentenced in case FIR No.338 dated 30.12.2013 under sections 420/468/471/472/474 P.P.C, registered at Police station Domel, Bannu, the detail whereof is as under:-

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

- i. Convicted under section 468 P.P.C, and sentenced to undergo three years rigorous imprisonment with fine of Rs.100,000/- each or in default of payment of fine, they shall further undergo for two months simple imprisonment.*
- ii. Convicted under section 472 P.P.C and sentenced to three years rigorous imprisonment with fine of Rs. 100000/- each or in default of payment of fine they shall further undergo for two months simple Imprisonment.*
- iii. All the sentences were ordered to run concurrently with benefit of Section 382-B Cr.P.C was also extended to the convict/ appellants.*



2. The prosecution story as narrated in the F.I.R is that the local police was having information regarding suspected motorcar bearing No. LEF/4242 Model 2007 Corolla at which Nabi Shah Khan S.H.O alongwith other police party made a barricade on Badin Khel road on 19.11.2013, in the meanwhile at 11.20 hours, the said motorcar came there, which was signaled to stop. Two persons were sitting in the motorcar alighted, the

ATTESTED
[Signature]
EXAMINER
High Court
Rumna Bench

person seated on driving seat disclosed his name as Hayatullah, while the other person seated on front seat disclosed his name as Akhya Jan. Akhya Jan claimed the ownership of the vehicle. On checking the motorcar nothing incriminating was recovered. The accused Akhya Jan produce registration book regarding the vehicle in the name of Hafiz Muhammad Asghar. The registration book alongwith motorcar being suspected was taken into possession and the accused Akhya Jan was arrested under section 54 Cr.PC. Inquiry was conducted under section 523/550 Cr.PC in which registration book was found bogus, hence, the above referred F.I.R.

3. After completion of investigation, complete *challan* was submitted before the trial court against accused/appellants. Formal charge against them was framed to which they pleaded not guilty and claimed trial. Trial commenced. The prosecution in

REGISTERED
JANER
High Court
District Bench

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order to prove its case examined as many as seven (04) witnesses. After conclusion of trial, statements of accused/ appellants U/S 342 Cr.P.C were recorded wherein they neither opted to examine on oath as provided under section 340 (2) Cr.P.C nor, wished to produce defence.

4. After hearing learned counsel for the parties, accused/ appellants were convicted and sentenced as above by the learned trial court, vide impugned judgment dated 07.03.2016, hence this Appeal.

5. Arguments heard and record perused.

6. It is in the F.I.R that appellant Hayatullah was driving the motorcar, while appellant Akhya Jan was sitting on front seat. The complainant Nabi Shah S.H.O appeared before the Court as PW-4, and stated in his examination in chief that:

"The person sitting on the driving seat disclosed his name

ATTESTED
EXAMINER
Peshawar High Court
Hayat Bench

*Hayatullah son of Mir Nawaz,
while the other one disclosed his
name as Akhya Jan son of
Bahadar Khan."*

7. While Abdur Rashid Khan ASI, examined as PW-2, being marginal witness of recovery memo, Ex:PW2/1, who was accompanied with S.H.O Nabi Shah at the time of seizer of the vehicle has disclosed in his cross examination that:

"The vehicle was driven by Akhya Jan and other person was sitting on the next seat with him."

8. In such eventuality, when the it is not certain that the vehicle in question was taken into possession from which accused, as the prosecution story is contradicted by both the PWs, complainant and marginal witness, the taking of vehicle from accused in the circumstances become doubtful.

ATTESTED

MINER

High Court

Hanna Bench

9. So for as verification of registration of the vehicle is concerned, PW-2, Abdur Rashid Khan ASI, stated that *"I also had taken the copy of registration to the office of MRA Lahore and as per the report Ex:PW2/2, registration book was found bogus, which was brought and handed to the IO."*

When he was subjected to cross examination, the put the ball rolling in the favour of appellants by saying that:

"It is correct that no documentary proof regarding my departure for verification of vehicle is available on judicial file."

He further stated that:

"It is correct that I have not submitted any application of departure to Lahore, to the DPO."

Abdul Majeed Khan ASI, examined as PW-1, categorically stated in his cross-examination that:

ATTESTED
 EXAMINER
 High Court
 Banna Bench

"As I have not recorded statement of Abdur Rashid Khan ASI, therefore, I cannot say anything that how and under whose orders he proceeded to the office of MRA Lahore for the verification of registration of the vehicle."

Similarly, Nabi Shah seizer of the vehicle, PW-4, in his cross-examination admitted that:

"No permission was sought by Abdur Rashid Khan ASHO from me for his departure to Lahore in connection with investigation of the present case."

10. When Abdur Rashid Khan ASI was not deputed by any person to verify the registration copy of the vehicle, nor there is any documentary proof regarding his departure to the MRA Lahore, nor there is any application regarding the same fact, how this report can be relied upon.

TESTED
SER
High Centre
Harwar Beach

11. While perusal of the MRA report regarding vehicle placed on file, reveals that it was a hand written report, written on the same letter, which was taken by the Abdur Rashid Khan ASI, while no office dispatch number has been written on it, in such eventuality, the report of MRA Lahore, being having serious dents and doubts, is not admissible in evidence, so could not be relied upon.



12. It has been admitted by the prosecution that neither the vehicle in question was stolen one nor its chassis number was tempered. The prosecution has also failed to prove that the vehicle in question was recovered from accused/ appellants. There are major contradictions in the statements of prosecution witnesses on material points. The prosecution case is pregnant with jumble of material dents and doubts. It is settled principle of law that prosecution is bound to prove its case against the accused beyond any shadow

ATTESTED
EXAMINER
Revenue High Court
Hanga Beach

of doubt, it is not necessary that there should be many doubts in the prosecution case, rather a single doubt is sufficient but reasonable doubt is sufficient for acquittal of an accused. The learned trial court erred in law by convicting the accused/ appellants by not appreciating the prosecution evidence in its true prospect.

13. For the detailed reasons mentioned above, instant appeal is allowed, vide short order of the even date, which is reproduced below:

"For reasons to be recorded later, the instant criminal appeal is accepted, the impugned judgment of conviction dated 07.03.2016, rendered by learned Additional Sessions Judge-I, Bannu is set aside to the extent of conviction of appellants Akhya Jan and Hayatullah and consequently they are acquitted of the charges leveled against them. They are on bail, their sureties are absolved from the liabilities of bail bonds."/>

Announced.

21.12.2016

Azam/P.S

Sd/ Mr. Justice Ishtiaq Ibrahim, J

13.2.17

CERTIFIED TO BE TRUE COPY

Examiner

Peshawar High Court Bannu Bench
 Authorised Under Article 87 of
 The Qanun-e-Shahadat Ordinance 1984

P

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7-11-20

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

Writ Petition No 1202 /2020

Hayat Ullah S/O Mirza Ayb Khan R/O Village Painsda Khel P.O
Domail Tehsil Domel District BannuPetitioner

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Central
Police Office, Peshawar.
2. Assistant Inspector General of Police Khyber Pakhtunkhwa
Central Police Office, Peshawar.
3. District Police Officer Bannu.
4. Regional Police officer Bannu Region, Bannu.
5. S.P Investigation Lakki Marwat. Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973**

⇔ <=> ⇔ <=> ⇔ <=> ⇔ <=> ⇔

Respectfully Sheweth:

This Writ Petition rising up from the following facts:

1. That the petitioner is bonafide citizen of Pakistan and
are permanent resident of District Bannu.
2. That on 15.04.2001 the petitioner was appointed as
Constable in Police Department in District Bannu. After
approximately 13 years the petitioner was charge in
misconduct case and was arrested by the District Police

Zaroor.

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in FIR No.283 dated 07.08.2013 U/S 365-A /353/ 109 PPC Police Station Takht-e-Nasrati Karak wherein consequent upon charge in the case FIR the petitioner was dismissed from service by the District Police Officer Bannu on 31.12.2013. (Copy of the dismissal order dated 31.12.2013 is annexed as "B").

3. That the trail of the case was started and after deficient of evidence the petitioner was acquitted from the charged leveled against him by the learned Anti-Terrorism Court, Kohat on 16.09.2015. (Copy of the Judgment dated 16.09.2015 is annexed as "C").
4. That the S P Investigation was appointed as inquiry officer by the competent authority, the inquiry officer has recommended the petitioner for re-instatement on the basis of acquittal in case. (Copy of the inquiry findings is annexed as "D").
5. That on 29.03.2016 De-novo inquiry was conducted by the Regional Police Officer Bannu Region, Bannu wherein after perusal of the record the dismissal order was set aside. (Copy of the order dated 29.03.2016 is annexed "E").
6. That 28.07.2016 the regional Police Officer Bannu Region has reviewed the earlier order dated 29.03.2016

Lawrence

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of the re-instatement of the petitioner in the application forwarded for comments has exercised the power. (Copy of the order is annexed as "F").

7. That being aggrieved from the impugned order dated 28.07.2016 of the respondent No.4 (Regional Police Officer Bannu Region, Bannu) the petitioner having no other adequate remedy hence, approaches this Honourable Court, inter alia, on the following grounds;

G R O U N D S:

- A. That the impugned appointment order dated 28.07.2016 of the respondent No.4 (Regional Police Officer Bannu Region, Bannu) is void-ab-initio, illegal and is discriminatory in contravention of the provisions of the constitution of Pakistan, thus liable to be set aside because once the same power has been exercised by the earlier officer office holding then this impugned order has no value in the eye of law.
- B. That the competent authority has illegally used the power wherein the comments were called to order the re-instatement, the application was forwarded of the petitioner by the department not for order but for final letter once the petitioner re-instated then how the appeal was barred by time thus, the impugned order dated 28.07.2016 is based on colorful exercise of

Lawyer

powers, vested in the functionaries of the Government through Constitution of Pakistan, which is against the basic principles of the equality of citizens before the state hence declared to be set at naught.

- C. That the impugned order is illegal, void-ab-initio and not sustainable in the eye of law more so, to bilge according to his own sweet will against the principle of equity and also violated the norms of justice.
- D. That the impugned action and attitude of the respondent No.4 is devoid of any logic.
- E. That the remaining points will be raised at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this Writ Petition, the impugned order dated 28.07.2016 of the respondent No.4 (Regional Police Officer Bannu Region, Bannu) may please be declared to be illegal, void-ab-initio and unsustainable thus set aside and the respondent No.4 may further be directed to reinstate the petitioner in service along with all back benefits accordance with law.

Any other efficacious remedy may also be granted in favour of the petitioner not specifically prayed for.

Tareen

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INTERIM RELIEF:

By way of interim relief, impugned order dated 28.07.2016 passed by the respondent No.4 (Regional Police Officer Bannu) may kindly be suspended till final disposal of this Writ Petition.

Petitioner
Through

Masood

Masood Iqbal Khattak
Advocate, Bannu

Dated: 07.11.2020

CERTIFICATE:

As per instructions of my client, certified that no such like **Writ Petition** has earlier been filed by the petitioner before this Honourable Court.

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Case Law According to Need.

Advocate

Masood

Q

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14-12-20

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

Writ petition No. 202-BN/2020

Hayat ullah S/o Mirza Ayub Khan R/o Village Painsa Khel P.O
Domail Tehsil Domel District Bannu.....Petitioner

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Central Police Office, Peshawar.
2. Assistant Inspector General of Police Khyber Pakhtunkhwa Central police Office, Peshawar.
3. District Police Officer Bannu.
4. Regional Police Officer Bannu Region, Bannu.
5. SP Investigation Lakki MarwatRespondents

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973**

Respectfully Sheweth:-

This writ petition rising up from the following facts:

1. That the petitioner is bonafide citizen of Pakistan and are permanent resident of District Bannu.
2. That on 15.04.2001 the petitioner was appointed as Constable in police Department in District Bannu. After approximately 13 years the petitioner was charge in misconduct case and was arrested by the District Police

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**THE PESHAWAR HIGH COURT BANNU BENCH.
(JUDICIAL DEPARTMENT)**

WP No. 1202-B of 2020

HAYATULLAH

VS

Inspector general of police,
Khyber Pakhtunkhwa and 4 others

JUDGMENT

Date of hearing: 14.12.2020

For Appellants: Masooq iqbal Khattak Advocate.

Sahibzada Asadullah, J:-- The petitioner approached this Court by invoking its jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:

“it is, therefore, humbly prayed that on acceptance of this writ petition, the impugned order dated 28.07.2016 of the respondent No.4 (Regional Police Officer, Bannu Region, Bannu) may please be declared to be illegal, void ab initio and unsustainable thus set aside and the respondent No.4 may further be directed to reinstate the petitioner in service along with all back benefits accordance with law. Any other efficacious remedy may also be granted in favour of the petitioner not specifically prayed for.”

2. Brief facts giving rise to the instant writ petitioner that petitioner was appointed as constable vide order dated 15.04.2001 and after performing 13 years service, he was implicated in case FIR No.283 dated 07.08.2013 under sections 365-A/353/109 PPC police station Takht e nasrati, karak. After completion of investigation in the case, challanw as submitted before the learned trial court, but during pendency of trial, the respondent No. 37 District Police Officer, Bannu, vide order dated 31.12.2013 the petitioner was removed from service. On conclusion of trial, the learned Special judge Anti Terrorism Court, Kohat vide order/ judgment dated 16.09.2015 acquitted the petitioner from the charges. The petitioner after his acquittal moved an application for reinstatement in service, before the respondents/ department, whereon inquiry was conducted by appointing the superintendent of police as inquiry officer, who after thorough probe recommended the petitioner for reinstatement, but again a denovo inquiry was conducted by the Regional police Officer. Bannu, wherein the dismissal order was set aside vide order dated 29.03.2016, but the respondent no.4/ Regional Police Officer, bannu, reviewed the order dated 29.03.2016 by issuing impugned order dated 27.07.2016, hence the instant writ petition.
3. The learned counsel for the petitioner heard at length and with their valuable assistance the record was gone through.
4. The record tells that the petitioner was serving as a constable in the respondents department, and after nomination in case FIR No.283 dated 07.08.2013 under section 365-A/353/109 PPC, police station takht e Nasrati, Karak, he was removed from service

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Vide order dated 31.12.2013, by the District police officer, Bannu/ respondent No.3 thought he petitioner was to challenge the same departmentally or before the competent Court of law, but he did not rather he waited till he was acquitted of the charges vide judgment dated 16.09.2015 and then he submitted application for his reinstatement, the inquiry on the application was completed vide order dated 29.03.2016, wherein no doubt he was recommended for reinstatement in service, but the same was reviewed by the respondent No.4, vide impugned order dated 28.07.2016. If the petitioner was aggrieved from the said order, he would have challenged the same before the High ups in the hierarchy or before the competent court of law, but he kept mum for long four years. There is nothing on record which could suggest that these were the respondents/ department which were instrument in causing the delay and even the petitioner did not file an application/ appeal to the concerned quarters for redressal of his grievances at the time when he was denied what was his due, hence, the instant writ petition hit by laches and hopelessly time barred, resultantly, the instant writ petition stands dismissed in limine.

Announced:

14.12.2020

SD/- Justice Ms. Musarrat Hilali, J

Sd/- Mr Justice sahibzada Asadullah J

یعدت چھاپ سروس ٹریڈنگ کمپنی پشاور

متواں ایڈیٹ

حیات نگار نامہ

دعویٰ اصل

باعتبار سروس ٹریڈنگ کمپنی

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی نکل کاروائی متعلقہ آلہ مقام پشاور کیلئے استعانت طلب خانہ سرور نے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اطلاع کیا جاتا ہے کہ صاحب موقوف کو مقدمہ کی نکل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کہنے رضی نامہ و آفرت ثالثہ و فیصلہ برتلاف میں جواب دہی اور اقبال دعویٰ اور بھرتی ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تقلید اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستحضرین و بار کر کے اپیل نکلوانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندرجہ کے نکل یا ہجرتی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے مقرر کا اختیار ہوگا اور وہ مقرر شدہ کو بھی وہی جملہ ہنگامہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پروا نہ منظر اور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب موقوف ہوں گے نیز بقایا دفر سپر کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاخیر پیشی مقام روبرو پر ہو یا عدست باہر ہو تو وکیل صاحب یا ہمد نہ ہوں گے کہ پیروی مندرجہ کریں۔

لہذا رکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 21-06-24

العبد العبد العبد

اریاب بیگ انکمال ایڈوکیٹ

سید عبدالرشید سید عبدالرشید ایڈوکیٹ

ایڈوکیٹ

انجمن نواز ایڈوکیٹ