

176/16  
① CA 173-174/16

12.10.2015

Counsel for the appellant and Mr. Ziaullah, GP alongwith Azizullah, HC for respondents present. Arguments heard. To come up for order on 3.11.15.



Member



Member

03.11.2015

Appellant with counsel (Mr. Ijaz Anwar, Advocate) and Government Pleader (Mr. Ziaullah) for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected appeal No. 1071/2014, titled "Raazi Khan Versus the Provincial Police Officer, KPK Peshawar and others", this appeal is also dismissed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
3.11.2015



MEMBER



MEMBER

5

26.03.2015

Appellant in person and Mr. Hayat Muhammad, Reader To DSP  
alongwith Addl: A.G for respondents present. Written reply submitted.  
The appeal is assigned to D.B for rejoinder and final hearing for  
15.10.2015.

  
Chairman

3.8.2015

Appellant with counsel and Addl. AG with Aziz Shah,  
H.C for the respondents present. Counsel for the appellant  
requested for time to file rejoinder. Therefore, case to come  
up for rejoinder and arguments on 15-10-2015.

  
MEMBER

01.09.2015


Appellant with counsel and Mr. Aziz Shah, H.C alongwith  
Mr. Muhammad Jan, GP for respondents present. Counsel for the  
appellant requested for adjournment. To come up for rejoinder  
and arguments on 15-10-2015.

  
Member

  
Member

Appeal No. 1070/2014  
Mr. Subir Khan

30.01.2015

Appellant deposited process fee  
& Security  


Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 08.05.2014, vide which the major penalty of Dismissal from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 19.05.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 18.08.2014. He further contended that no proper procedure has been followed before awarding the penalty to the appellant, the inquiry officer recommended the exoneration of the appellant, however the competent authority have never issued any order nor have stated any reason for disagreeing with the recommendation of the inquiry officer and when departmental enquiry was initiated against the appellant, the Khyber Pakhtunkhwa Civil Servant Removal from Service(Special Power) Ordinance, 2000 was already repealed and thus the proceedings conducted against the appellant were hit by the principle of misapplication of law, as by the Govt. Servant (E&D) Rules, 2011 were in the field.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 26.03.2015 before the learned Bench-III.

  
Member

2.

Reader Note:

20.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 24.12.2014 for the same.


  
Reader

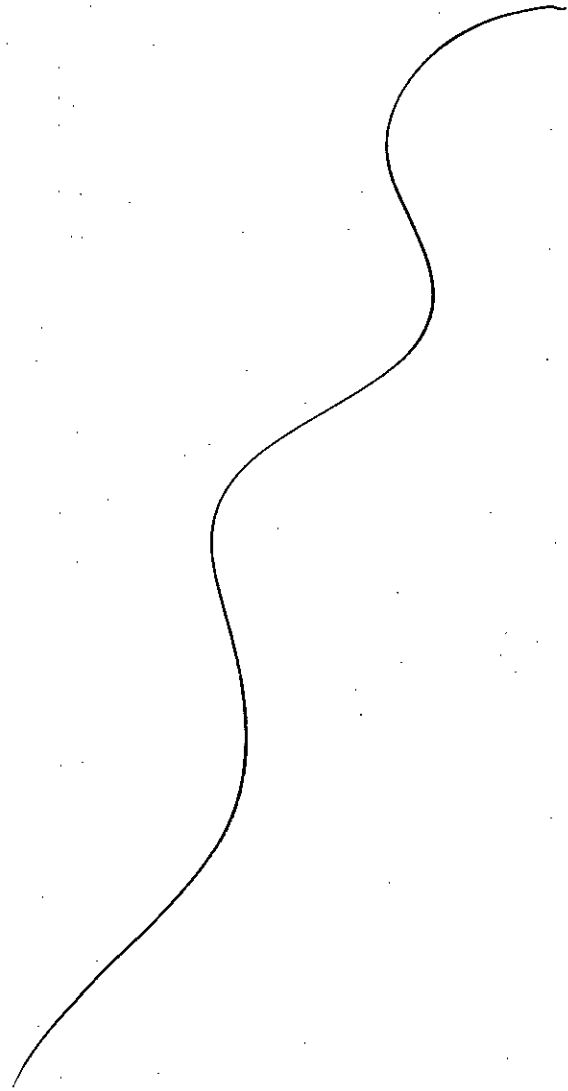
3.

Reader Note:

24.12.2014

Appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned to 30.01.2015 for the same.

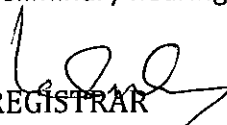
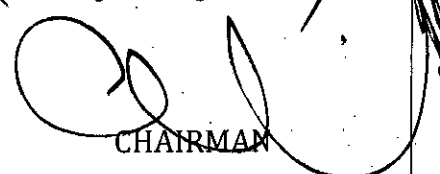
  
Reader



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1070 /2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/08/2014	<p>The appeal of Mr. Sabir Khan resubmitted today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-8-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <del>20-11-2014</del></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Sabir Khan Ex-Sub Inspector Police Lines Peshawar received today i.e. on 18.08.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of FIRs mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Copies of enquiry report and acquittal order mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Copy of Impugned dismissal order is illegible which may be replaced by legible/better one
- 4- Annexures of the appeal may be attested.
- 5- Appeal may be page marked according to the index.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal which may be submitted with the appeal.

No. 1224 /S.T,

Dt. 19/8 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

- 1- Para is completed placed on it
- 2- Para is completed placed on it
- 3- is completed
- 4- is completed plus it on
- 5- is completed plus rem.
- 6- Para is completed on

Re-Submitted



**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 1070/2014

**Sabir Khan** Ex -Sub Inspector, Police Lines Peshawar.  
(Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar and others.

(Respondents)

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*Sabir*

Appellant

Through

*Ijaz Anwar*

Advocate Peshawar

&

*Sajid Amin*

Advocate, Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 1070/2014

K.P.S. Peshawar  
1085  
18/8/2014

***Sabir Khan*** Ex -Sub Inspector, Police Lines Peshawar.

**(Appellant)**

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Headquarters, Peshawar.

**(Respondents)**

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 08.05.2014, whereby the appellant has been awarded the major Punishment of "*Dismissal from Service*" against which the departmental appeal dated: 19.05.2014 has not been responded despite the lapse of statutory period.

Prayer in Appeal: -

On acceptance of this appeal impugned order dated 08.05.2014, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

re-submitted to  
and filed,

18/8/14  
22/8/14



Respectfully Submitted:

1. That the appellant was enlisted as Constable in the Police department in year 15-02-1977. During the course of his service the appellant also got promotions to different ranks, lastly he was promoted as Sub Inspector.
2. That ever since his enlistment the appellant had performed his duties as assigned with Zeal and devotion and there was no complaint whatsoever regarding his performance.
3. That the appellant while posted as ASHO, Police Station Khazan, an F.I.R NO. 478 dated 29.5.2011 under Section 506/34 PPC was registered upon complaint of one Asghar Khan against Khalid Khan, Aziz Khan sons of Alam Khan, Sajid Khan, Arshad Khan sons of Khalid Khan R/O Dheri Hakim Abad District Nowshera. The accused named above were also arrested in the above said case. (*Copy of the FIR dated 29.05.2011 is attached as Annexure A*)
4. That on 30.05.2011, a case vide FIR No. 504/2011, under section 302/324/427/148/149 PPC, Police Station Nowshera Kalan, was also registered against the same persons/accused on the report of one Fakhar-e-Alam S/O Dilaram. The complainants of the FIR No. 504/2011, also submitted an application before the Respondent No. 1, wherein he alleged that the accused of FIR No. 504/2011 PS Nowshera Cantt; with the collusion of local Police of PS Khazana and under premeditated plan got registered the case FIR No. 478/2011 PS Khazana before one day to the occurrence to save the accused from their involvement in case FIR No. 504/211, PS Nowshera Cantt. Accordingly preliminary inquiry was conducted and the inquiry officer while submitting his findings gave certain recommendations. Thereafter, while adding section 109 PPC in case FIR No. 504/2011 PS Nowshera, the appellant along with SI Raazi Khan were also charged in the same case. And were also recommended for departmental action. (*Copies of the FIR dated 30.05.2011 and Preliminary Inquiry Report is attached as Annexure B & C*)

5. That accordingly the appellant was also proceeded departmentally and was suspended from service. The appellant was served with charge sheet and statement of allegations dated 15.12.2011, containing certain false and baseless allegations. He duly replied the Charge Sheet and refuted the allegations. *(Copies of the Charge Sheet statement of allegations and reply to the Charge Sheet is attached as Annexure D & E)*
6. That there inquiry was conducted and the inquiry officer while submitting his report dated 04.04.2012, recommended that the enquiry may be kept pending till the outcome of the criminal case. It was thus concurred and the enquiry was kept pending. In the meantime the criminal trial also concluded and the appellant was honourably acquitted of the charges vide judgment and order dated 13.6.2013 by the Learned Sessions Judge Nowshera. *(Copies of the inquiry report dated 04.04.2012, and acquittal order dated 13.06.2013 is attached as Annexure F & G)*
7. That after the acquittal of the appellant, the enquiry was reactivated, and the enquiry officer also recommended for reinstatement of the appellant and only for issuance of warning note, vide inquiry report dated 24.09.2013. The competent authority also approved the recommendation of the enquiry officer. *(Copy of the inquiry report dated 24.09.2013, is attached as Annexure H)*
8. That unfortunately when the appellant requested for his proper reinstatement order and issuance of posting order, the competent authority got annoyed himself and issued dismissal order dated 08.05.2014, however without serving the appellant mandatory final show cause notice. It later transpired to fulfill paper work an ante dated show cause notice was also placed on the record. *(Copy of the order dated 08.05.2014, is attached as Annexure I)*
9. That the appellant also submitted his departmental appeal dated 19.05.2014, however the same has not been responded despite the lapse of statutory period. *(Copy of the departmental appeal and rejection order are attached as annexure J)*

10. That the orders impugned are illegal, unlawful, against the law and fact, hence liable to set-aside inter alia on the following term.

**GROUND OF APPEAL:**

- A. That the appellant has not been treated with accordance to law. Hence his rights secured and granted under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty to the appellant, the inquiry officer recommended the exoneration of the appellant, however the competent authority have never issued any order nor have stated any reason for disagreeing with the recommendations of the inquiry officer, moreover over the appellant has never been served with the show cause notice, thus the penalty imposed is illegal and not tenable under the law.
- C. That the appellant has not been allowed the opportunity of personal hearing. Thus he has been condemned unheard.
- D. That at a time when the departmental enquiry was initiated against the appellant, the Removal from Service (Special Powers ) Ordinance, 2000 was already repealed and thus the proceedings conducted against the appellant were hit by the principle of misapplication of law, as by then the Govt Servant ( E & D) Rules, 2011 were in the field.
- E. That no show cause notice as required under the law was ever served upon the appellant. The one placed on file is an afterthought never conveyed to the appellant, otherwise the appellant throughout remained under suspension and were present in the Police lines.
- F. That the recommendation of the enquiry officer were not adhered to, and thus the order of dismissal is a result of misapplication of law, not adherence to the rules, law, arbitrary and is whimsical, similarly the appellant was never given opportunity of hearing as alleged, thus I have been condemned unheard.

- G. That where the main allegations against the appellant were the same as mentioned in the criminal case, and the appellant has been acquitted in the criminal case than as per 16.3 of the Police Rules, the departmental proceedings were incompetent, the same is reproduced,
- “ (1) When a police officer has been tried and acquitted by a criminal court he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not, unless:-*
- (a) The criminal charge has failed on technical grounds; or*
  - (b) In the opinion of the court or of the Superintendent of Police the prosecution witnesses have been won over; or*
  - (c) The court has held in its judgment that an offence was actually committed and that suspicion rests upon the police Officer concerned; or*
  - (d) The evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or*
  - (e) Additional evidence admissible under rule 16-25 (1) in departmental proceedings is available.*
- H. That ever since his appointment, the appellant had performed his duties with zeal and devotion and there was no complaint whatsoever regarding his performance.
- I. That the superior courts have always held that mere filling of FIR would not ipso-facto made a person guilty of commission of the offence rather he would be presumed to be innocent unless convicted by court of competent Jurisdiction.
- J. That the charges leveled against the appellant has never been proved during the inquiry albeit he has been dismissed from service on the bases of unproven charges.
- K. That the appellant never committed any act or omission which could be term as misconduct. He has been falsely charged in criminal case in which he has already gained acquittal albeit he has been dismissed from service.
- L. That the appellant has at his credit a long and spotless service career the penalty imposed is too harsh and liable to be set aside.

- M. That the facts and grounds mentioned in the departmental appeal, replies to the charge sheet and show cause notice may also be read as integral part of the instant appeal.
- N. That the appellant is jobless since his illegal dismissal from service.
- O. That the appellant seeks permission to relay on additional grounds at time of hearing of the appeal.

*It is, therefore, humbly prayed that on acceptance of this appeal impugned order dated 08.05.2014, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.*

*Sun*  
Appellant

Through

*Ijaz Anwar*  
IJAZ ANWAR

Advocate Peshawar

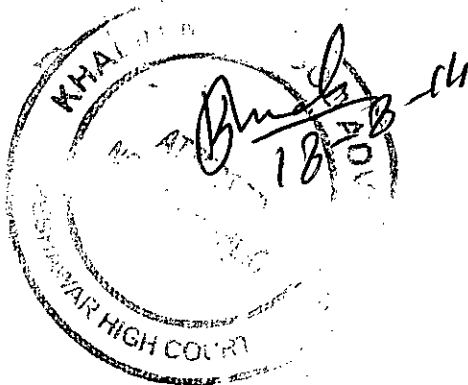
&

*Said Amin*  
SAID AMIN

Advocate, Peshawar

**AFFIDAVIT**

I, **Sabir Khan Ex -Sub Inspector, Police Lines Peshawar,** do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.



*Sun*  
Deponent

گورنمنٹ پولیس ڈپارٹمنٹ، لاہور

فائل نمبر 22-14  
14  
251

### ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شمارہ زیر دفعہ 152 مجموعہ ضابطہ نو جداری

ضلع \_\_\_\_\_ تاریخ \_\_\_\_\_

کارڈ وقت رپورٹ	29 جون 1906
بیمہ کوئی اطلاع دہندہ مستغنیات	1762
نقص کیفیت جرم (مدرقعہ) حالت کریمینا آیا اور	29 جون 1906
بانت وقوعہ صلو قوائد سے اور سمت	1906
بیمہ کوئی غرم مندرجہ ذیل	29 جون 1906
کارروائی جو تفتیش کے متعلق کی گئی	29 جون 1906
تفتیش سے روایت کی تاریخ و وقت	29 جون 1906

**ابتدائی اطلاع محمد درویش**

میں نے اپنے گھر میں ایک شخص کو دیکھا جو میری طرف سے ایک نوٹ لے رہا تھا۔ اس شخص کی شناخت نہیں ہو سکی۔

میں نے اس شخص کو روکا اور اس سے کہا کہ وہ وہاں سے نکل جائے۔ اس نے کہا کہ وہ میری طرف سے ایک نوٹ لے رہا تھا۔

میں نے اس شخص کو روکا اور اس سے کہا کہ وہ وہاں سے نکل جائے۔ اس نے کہا کہ وہ میری طرف سے ایک نوٹ لے رہا تھا۔

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اس شخص کی شناخت نہیں ہو سکی۔ اس نے کہا کہ وہ میری طرف سے ایک نوٹ لے رہا تھا۔

میں نے اس شخص کو روکا اور اس سے کہا کہ وہ وہاں سے نکل جائے۔ اس نے کہا کہ وہ میری طرف سے ایک نوٹ لے رہا تھا۔

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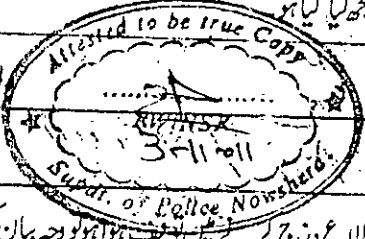
محمد درویش

فائل

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۳ مجموعہ ضابطہ فوجداری

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۱۱۹-۱۴۸-۴۲۷-۳۲۶-۳۰۲

مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو

پولیس نوٹیفکیشن نمبر ۷۳

ابتدائی اطلاع نیچے درج کرو۔ بطور سٹیبل لائٹ

تقریباً ۱۱ بجے رات کو

مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو

۱۱ بجے رات کو

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CASE FIR NO. 478 DATED 29.05.2011 U/S 506/34-PPC PS KHAZANA  
CAPITAL CITY POLICE, PESHAWAR

Sir,

Mian Naseeb Jan DSP/Investigator has submitted attached report on the above mentioned case.

1. Perusal of record reveals that on 29.05.2011 SI Sabir Khan accompanied by Constables Qudus No. 228, Janjooz No. 936 and Hameed No. 217 while on patrolling duty, heard firing from Larama Graveyard's side. They rushed to the spot where Complainant Asghar reported to the effect that he had purchased a plot consisting of 10 1/2 marla situated at Gul Town and sold onward to one Usaidullah from which Usaidullah later on intended withdrawal for the reasons that some persons were claiming ownership of the said plot. He (the complainant) added that he was present near the same plot meanwhile accused Khalid Khan, Aziz Khan, Hamid Khan and Arshad Khan arrived there duly armed and fired aerial shots with the intention of criminal intimidation. Said Ali was stated to be the eye witness of occurrence, while motive was stated dispute over the same plot. He charged the above four accused for the occurrence. On his report SI Sabir Khan drafted a murasila and sent the same to PS Khazana, on which the above mentioned case was registered. According to SI Sabir Khan, he received information at 21:50 hrs about arrival of accused through Larama Graveyard's passage, where he held Naka bandi, stopped a white colored Alto bearing Reg: No. LPT/1978, found accused Khalid, Aziz, Hamid and Arshad present in the car, who were arrested. One 9-MM Pistol bearing No. 00051, with 12 rounds alongwith 2 spare chargers from the possession of accused Khalid while a 30 bore pistol without number alongwith 3 rounds was recovered from the possession of accused Aziz. A separate case vide FIR No. 482 dated 29.05.2011 u/s 13-AU PS Khazana was registered against both the aforesaid accused. SI/CIO Nasir Khan was deputed for carrying out investigation. He examined the spot from 20:25 PM to 23:40 PM on the same night i.e. 29.05.2011 and mentioned in his report that due to night time and absence of complainant and witnesses, preparation of site plan and recovery of empty shells would be effected on the following day. On the following day the I.O prepared site plan, recorded statements of witnesses u/s 161-Cr.PC and recovered 8 empty shells of 9 MM from the spot. The arrested accused were ordered to be sent to judicial lock up by the Court. The recovered 9 MM pistol and empties were sent to FSL for analysis, wherefrom the empties were reported to have been fired by the same pistol. On 31.05.2011 SHO Razi Muhammad Khan drafted completed challan in the case.

Handwritten signature/initials.



10

On 29.05.2011, the above case was registered and on 30.05.2011 at U.P.O. District case No. 504 U/S 302/324/427/148/1 PPC PS Nowshera Cantt. was registered on the report of complainant Fakhre Alam, who charged the same four accused (charged in case No. 478/2011) namely Khalid, Arshad, Hamid and Ali, alongwith their co-accused Faze Sultan and Naveed for indiscriminate firing at them (complainant and his companions) while they were going to attend the court at Nowshera in motor car No. 1 Y 2011, driven by the complainant. By the firing the complainant, his companions Rashid Khan, Rashid and Raj Muhammad, sustained severe injuries, amongst them Rashid Khan, Rashid and Raj Muhammad later on succumbed to their injuries. The accused made their escape good from the spot. Local Police recovered 100-empty shells from the spot.

On 06.06.2011, Di. Aram Khan (father of Rashid Khan, murdered in case FIR No. 405/2011 PS Nowshera Cantt.) submitted an application to the worthy Provincial Peace Officer Khyber Pukhtunkhwa wherein he alleged that the accused of case FIR No. 504/2011 PS Nowshera Cantt. with the collusion of local Police of PS Khazana and under a premeditated plan got registered the case FIR No. 478/2011 PS Khazana before one day to the occurrence to save the accused from their involvement in case FIR No. 405/2011 PS Nowshera Cantt. He requested for re-investigation of case FIR No. 478/2011 PS Khazana through Crimes Branch (Inv. Unit). His application was received in this unit which was considered by the Board and case FIR No. 478 dated 29.05.2011 u/s 506/34-PPC PS Khazana CCP, Peshawar was recommended to be re-investigated by this unit.

RE-INVESTIGATION BY THIS UNIT

During the course of re-investigation spot inspection was carried out, statements of the witnesses were recorded, cell phones record of concerned Police Officers of PS Khazana and accused of case FIR No. 478/2011 PS Khazana was obtained, record of PS Khazana was checked, complainant Asghar Khan was examined, the previous owners of the disputed plot were heard and statement of disinterested eye witness namely Al-Haj Mian Rasheed Gul (proprietor Rasheed Gul Property Dealer) Landey Sarak Charsadda road, Peshawar was recorded.

From the re-investigation carried out by this unit it has been established that the present case i.e. FIR No. 478 dated 29.05.2011 U/S 506/34 PPC PS Khazana was registered under a proper and premeditated plan by the Complainant Asghar Khan and nominated accused Khalid, etc. with the full support and connivance of SHO Razi Khan, SI Sabir Khan to give cover to the nominated accused to commit the occurrence i.e. vide FIR No. 504/2011 Cantt. Nowshera and create false alibi, on the following grounds:

- No departure/arrival report is from the spot of the case. Khan etc. found entered in the daily diary of PS Khazana, whereas in his private diary has clearly mentioned have inspected the spot from 22:3 hrs to 23:45 hrs on 29.05.2011, when case is registered.
- Complainant Asghar Khan after repeated directions produced a stamp paper No. 160 dated 16.02.2010 showing transaction of the plot in question between one Ajmal Khan and Asghar Khan (complainant) bearing signature of only one witness namely Sayab Ali r/o Bala Baramad Khaj. The deed writer namely Shafatullah was examined who failed to prove the legal status of stamp in question as the stamp paper bears signature of only one witness instead of two. It was written by him at the behest of Ajmal Khan who had come to his shop on behalf of Asghar Khan. No handing/taking over of money of the transaction was effected before him (deed writer) and neither any photo copy of the mutation or registry of the plot in question was produced by Ajmal Khan while preparing the stamp paper. Shafatullah, (deed writer) could not justify these points while questioning. Thus the stamp paper proved to be fake one.
- Complainant Asghar Khan could not reply satisfactorily when he was questioned that how did he know the names and parentage of all the accused and that how did accused come to know about his presence in the plot in question on the night of 29.05.2011 at Gul Town, while he was the resident of Mathra Shahi Payee, which is several miles away from Gul Town.
- Complainant Asghar Khan did not produce eye witness Said Ali despite repeated directions.
- Actual owner of the plot namely Ubaid-ur-Rehman could not be produced by the complainant party, while statements of complainant Asghar Khan and accused Khan etc. about the ownership of plot in question are also contradictory.

**FACTS BEHIND THE OCCURRENCE**

- (i) Complainant Asghar Khan and the nominated accused i.e. Khalid Aziz, Hamid and Arshad had already acquaintance with each other which developed through one Shariq resident of Sunday Sarak who is an influential person. The accused Khalid etc. had previous blood feud enmity with Dil Aram etc. i.e. complainant party of case FIR No. 50/2011 PS Cantt. Nowshera and earlier two cross cases vide FIR No. 618/2010 and 619/2010 PS Cantt. Nowshera had already been registered between the parties.
- (ii) Accused Khalid Khan etc. are also reportedly financially sound who under a pro

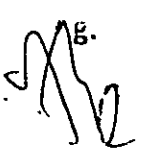
UPC

planned strategy and offer of heavy bribe persuaded SHO Razi Khan, SI Sabir Khan and Complainant Asghar Khan to register case no. 504/34 PPC on 29.05.2011 against them and on the following day they were going to execute their plan of attack on their rivals i.e. Dil Aram etc. which they did.

(iii) Accused Khalid while recording his statement stated that he had received information on the day of occurrence that some persons were digging out their plot at Gul Town. They accompanied by Aziz etc. arrived at the spot in Alto Motor Car where they found 3/4 persons digging out the ground. Thus they fired aerial shots to intimidate them while the said persons also fired aerial shots by Kalashnikov and pistol. One of them was later on identified as Asghar who was trying to occupy his (Khalid's) plot. After the occurrence they returned, but on reaching near Graveyard, their vehicle broke down. The fault took 2/3 hours to rectify. On the way Police party intercepted, arrested them and they were taken to Police Station.

**The above mentioned statement of accused Khalid is totally exaggerated because:-**

- a. After making photographs of the plot in question no signs of excavation were found there.
- b. Accused Khalid spent 3-hours in removing fault of his motor car, while a no. of Mechanic's shops was available at a short distance near Budani Pul, then why didn't he carry his vehicle to the Mechanic's shop.
- c. He stated to have fired 12-13 shots from 9-MM pistol, while 8-empties were recovered from the spot. Furthermore while recording his earlier statement before SI/I.O Nasir Khan of P.O. Khazana, he denied to have fired any shot.
- d. He stated that Asghar Khan etc. also fired shots, then he (Khalid) should also have got registered a cross case against them, but he did not do that. Khalid party is well versed in Thana Kachery, they could not have ignored registering cross case.
- e. He denied of having any acquaintance with Ubaid-ur-Rehman who had allegedly withdrawn from the plot in question being disputed, which is contrary the report lodged by Complainant Muhammad Asghar
- f. All the four accused denied of possessing mobile phones at the time of occurrence, while local Police took into possession their mobile phone sets. They all lied on this count.

18. 

There is only one passage towards the place of occurrence, where on return, vehicle of the accused allegedly got defect. But SI Sabir Khan denied to have seen

the accused on the ... vehicle.

h. Similarly statement of SI Sabir Khan also proved to be false one when Al-Haj Mian Rasheed Gul, (proprietor, Rasheed Property, at Lande / Sarai, Charsadda road, Peshawar (a disinterested eye witness) disclosed that he along with one Khan Zait was present at Gul Town. Meanwhile some persons in a white coloured Alto Car arrived there, one of them identified as Shareef Jan /o Harrat Jan Colony. Of those persons, one fired aerial shots. According to this witness SI Sabir Khan had reached the spot pretty soon after the firing. Astonishingly, the accused disposed off their Kalashnikov in SI's presence.

i. Statement of SI Sabir Khan proved false when cell phone records of mobile numbers of SI Sabir Khan, SHO Razi Khan, accused Khalid, Sharif Jan (their friend), Complainant Muhammad Asghar and Ajmal Khan was acquired which revealed that all of them remained in contact with each other at different times on 29.05.2011 (when case registered). On 29.05.2011 Complainant Asghar telephoned SI Sabir Khan at 19:06 hrs: while SI Sabir Khan has mentioned the time of lodging report in the musasila as 19:30 hrs: which reflects that complainant himself had called on SI Sabir Khan to the spot. Although both of them i.e. SI Sabir Khan and Complainant Muhammad Asghar denied to have contacted each other before the occurrence, but their call records goes against their statement.

j. Similarly on 30.05.2011 (following day of the registration of case FIR No. 478/2011 U/S 506/34-PPC PS Khazana; SI Sabir Khan talked to Complainant Muhammad Asghar at 07:57 hrs: while case's investigation had been handed over to IO Nasir Khan then SI Sabir Khan should have no concern with the case but after his first call, SI Sabir Khan, Complainant Muhammad Asghar and Sharif Jan remained in contact with each other through their cell phones till 22.05.2011.

k. SI Sabir Khan on reaching the spot, should have collected empty shells but he did not do that. He has entered his arrival from the spot in the daily diary vide Mad No.23 at 22.30 hrs: while Cell phone record reveals that he remained out of Police Station till 22:47 hrs: as he had received consecutive calls on his mobile phone No. 2049167 from PS Khazana. He did not take any action u/s 523/550-Cr.PC against Car wherein the accused were allegedly boarded. He should have informed immediately to PS Nowshera Cantt: about arrest of the accused but he conveyed information to PS Nowshera Cantt: on 30.05.2011 in the evening. He did not take preventive measures amongst Complainant Muhammad Asghar and accused Khalid etc. He stated to have sent the musasila through

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Constable Oudus No. 233 to the Police Station where he is posted. He is a well known person in the area.

On the day of occurrence ASI Razi Khan was on duty in the Police Station Khazana, but he denied to own his signature on the FIR. He is a well reputed officer. There are obvious difference in his actual signature and the signature on the FIR which depicts that some body faked his signatures on the FIR. While recording his statement he stated that on 29.05.2011 he was on 'Shah Basti' SHO Razi Khan telephone him at evening time that a case u/s 506 PPC would be registered and handed over to him for investigation, which he refused.

**ROLE OF SI/IO NASIR KHAN**

- (i) No departure/arrival report to/from the spot by IO Nasir Khan was found in the daily diary of PS Khazana, whereas, in his first case diary, he has clearly mentioned to have inspected the spot from 20:15 hrs: to 23:40 hrs: on 29.05.2011 i.e. when case was registered.
- (ii) He inspected the spot at night but recovery of empty shells effected on the next day.
- (iii) Complainant Muhammad Asghar while lodging report had stated that all the four accused fired shots. Recovery of 2 pistols was effected from only 2 accused. The I.O should have submitted application for seeking Police custody of the remaining two accused to make possible recovery of any arms/ammunition from their possession but he did not do that.
- (iv) He should have collected mobile call record of the accused but he avoided it.
- (v) He did not ask the complainant to produce the ownership documents of the plot in-question.
- (vi) He did not make efforts to trace out disinterested witness in order to find out the facts.
- (vii) He did not bother to trace out Ubaid ur Rehman, on which the plot in-question was allegedly sold by the complainant.
- (viii) He did not take any preventive measures between the parties.
- (ix) It is relevant to mention here that he was actually not present in the Police station on the date of occurrence. According to the cell phone record, he was contacted on his cell phone on 30.05.2011 at 05:29 hrs: (morning) from the telephone of PS Khazana and the Mobile Tower showed the position of call receiver (IO Nasir Khan) at Prang Ghar which is his native village. All this reflects that he was called on to reach Police Station in hurry, hence he

*Handwritten signature/initials*

ended at PS Khazana on 30.05.2011 and entered report of his arrival at 29.05.2011 at 17:30 hrs. Furthermore, the completed investigation of the case FIR No. 478/2011 J/S 506/34-PPC PS Khazana just on one day and submitted to the SHO for drafting challan.

Statement of ASI Fazle Raziq and distinguished witness Al-Hajj Mian Rasheed Gul and cell phone record is sufficient to prove that case FIR No. 478/2011 J/S 506/34-PPC PS Khazana to be pre-planned and fake one.

The Cell Phone record of SI Sabir Khan, SI/IC Nasir Khan, SHO Khan Muhammad Khan of PS Khazana. Complainant Muhammad Asghar and his friend Sharif Khan, accused Khalid, Ajmal (their friend) further revealed that all of them remained in contact with each other continuously between 06.05.2011 to 02.07.2011.

**RECOMMENDATIONS**

In the light of above detailed facts, following recommendations are submitted:-

- Section 109-120-B PPC may be added in case vide FIR No. 506 dated 29.05.2011 J/S 302/324/427148/149-PPC PS Nowshera cantt against Staff Iqn. S/o Rashid Gul R/o Hazrat Jan Colony Janday Sarak, Asghar S/o Anil resident of Shahi Payan, Mathra, Ajmal Khan son of Razal Khan resident of Khazara Payan, Peshawar, SI/IC Razi Muhammad of PS Khazana and SI Sabir Khan of PS Khazana for hatching & actively taking part in the criminal conspiracy.

- Since in the present case vide FIR No. 478/2011 J/S 06/34 PPC PS Khazana, Complainant Muhammad Asghar and accused Khalid, Azil, Hamid and Arshad with the connivance of SHO Razi Muhammad, SI Sabir Khan, Ajmal Khan and Sharif Jan, staged the drama of aerial firing, therefore section 506-PPC is required to be deleted and sections 203-PPC/3/4 aerial firing/109-PPC should be added in the case against all of them. SHO Razi Muhammad & SI Sabir Khan are liable for departmental action under the charge.

- SI/IC Nasir Khan alongwith Constables Qudus No. 228, Jamroz No. 936 and Hameed No. 227 are also responsible for concealing the facts and conducting poor investigation, therefore they are also liable to be dealt with strict departmental action.

Submitted please.

DIG/Investigation-II

SSP/Investigation  
2/8/2011

CHARGE SHEET

16

ANNEX 1 D


I, Tahir Ayub Khan Sr. Superintendent of Police, (Operations), Peshawar, as competent authority, hereby charge you SI Razi Khan SHO PS Khazana and SI Sabir Khan PS Khazana Peshawar as follows:-

You SI Razi Khan SHO PS Khazana and SI Sabir Khan PS Khazana, Peshawar committed the following irregularities that:-

It is alleged that you SI/SHO Razi Khan and SI Sabir Khan of PS Khazana having being involved in case FIR No. 504, dated 30.05.2011 u/s 302/324/148/149/109 PPC Police Station Nowshera Kala. In this connection a preliminary enquiry conducted by Addl IG Investigation Khyber Pakhtunkhwa Peshawar who held responsible you SI/SHO Razi Khan and SI Sabir Khan PS Khazana for gross misconduct on your part thus you have been recommended for proper departmental enquiry under the rule under Removal from Service (Special Powers) Ordinance-2000.

2. By reasons the above, you appear to be guilty of misconduct under section 3 of the NWFP Removal from Service (Special Power) Ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in section 3 of the ordinance.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to Enquiry Officer.
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case exparte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

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SI Razi Khan  
17/12  
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(TAHIR AYUB KHAN) PSP  
SR: SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.



(17)

**DISCIPLINARY ACTION AGAINST  
SI RAZI KHAN SHO PS KHAZANA AND SI SABIR KHAN PS KHAZANA**

I, Tahir Ayub Khan, Sr: Superintendent of Police, Operations, Peshawar as competent authority, is of the opinion that SI Razi Khan SHO PS Khazana and SI Sabir Khan PS Khazana rendered him liable to be proceeded against, as they committed the following acts within the meaning of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance V/2000.

**STATEMENT OF ALLEGATIONS.**

SI Razi Khan SHO PS Khazana and SI Sabir Khan PS Khazana committed the following irregularities that:-

It is alleged that you SI/SHO Razi Khan and SI Sabir Khan of PS Khazana having being involved in case FIR No. 504, dated 30.05.2011 u/s 302/324/148/149/109 PPC Police Station Nowshera Kala. In this connection a preliminary enquiry conducted by Addl IG Investigation Khyber Pakhtunkhwa Peshawar who held responsible them SI/SHO Razi Khan and SI Sabir Khan PS Khazana for gross misconduct on their part thus they have been recommended for proper departmental enquiry under the rule under Removal from Service (Special Powers) Ordinance-2000

This act is against the discipline which amounts to gross miss conduct on their part and render them liable for minor/major punishment under the rules Removal from Service (Special Power ordinance ) 2000.


2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an enquiry is ordered and *SP Rival* Peshawar is appointed as Enquiry Officer.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provided reasonable opportunity of hearing to the accused officer, record its finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date. Time and place fixed by the Enquiry Officer.

  
(TAHIR AYUB KHAN) PSP  
SR: SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.

NO. *85/E* /PA, dated Peshawar, the *15/12* /2011.





(18) ANNEX E

To,

The Senior Superintendent of Police (Operations),  
Rural, Peshawar.

Subject: REPLY TO THE CHARGE SHEET DATED 15-12-2011

Respected Sir,

I respectfully submit my replied to Charge Sheet as under:-

I at the very outset deny the allegations leveled against me as baseless and incorrect. The finding of the enquiry officers were baseless and unfounded, I have never involved myself in any omission or commission that can be termed and misconduct.

The factual position is that FIR No. 478 dated 29-05-2011 under Section 506 / 34 got registered against the accused namely Khalid Khan, Aziz Khan sons of Alam Khan, Sajid Khan, Arshad Khan sons of Khalid Khan R/O Dheri Hakim Abad District Nowshera, is based on fact. The Complainant of the FIR still own his FIR. The accused were arrested, weapons of offence with Motor Car No. 1978 / LPT was also recovered and still is case property. The empties recovered from the site was also confirmed from laboratory to match with the weapons recovered, thus whatever I did it in accordance with law and simply performed my duty. Unfortunately on 30-05-2011 FIR No. 504 under Section 302 / 324 / 427 / 148 / 149 PPC in Police Station Nowshera Cantt was also registered in which the accused present in custody in FIR No. 478 were made accused. Since it shows the malafide / false implication, hence it infuriated the complainant in FIR No. 504 in submission of false complaint dated 06-06-2011. On the final report of the enquiry team Section 203 PPC 3 / 4 Arial firing was inserted in FIR No. 478 and it was malafidly suggested to charge me and SHO Razi Muhammad along with other accused.

It is submitted with request that the final report submitted by the enquiry team has accepted the version of the complainant, and has not associated the applicant with the enquiry, the overwhelming evidence to the contrary was completely ignored. Apart from the above simply in a final report if another version is given should not change the status of the cases, even if to the extent of insertion of some section of law are made it will not make out a case of initiation of Departmental enquiry, since the main allegation leveled against the applicant are criminal in nature, for which it is yet to be decided whether to insert the section of laws as suggested or not moreover



No 1041-02 M 44 T  
6/4/2012

Reference Attached.

No 4068 /PA  
Dated 4/4/2012

ANNEX F  
(20)

**Subject: ENQUIRY AGAINST SHO RAZI KHAN AND SI SABIR KHAN PS KHAZANA**

Reference your charge sheets issued office No 85/E, dated 15.12.2011, on the subject noted above.

As per attached order sheet prepared by the then SP-Rural, the defaulter officers were summoned on 17.12.2011, both the defaulter Officers named above appeared in the office before him who were served upon with charge sheets for the submission of their replies/comments within stipulated period of time. On 22.12.2011 both the officers submitted their replies within stipulated period of time.

The undersigned perused the all relevant papers like detail enquiry/findings of Crime Branch which is duly endorsed by the DIG/Investigation and W/Addl: I.G Investigation, the statements of defaulter Officers have also been examined (attached herewith).

Brief Facts.

As disclosed in FIR 504 dated 30.05.2011 u/s 302/324/427/148/149 of PS Nowshera Kalan wherein complt: charged accused Khalid Khan, Aziz Khan, Hamid Khan, Fazal Subhan and Naveed for resorting firing over them as a result wherein Irshad Khan, Rasheed and one Raj Muhammad were expired whereas complt: and Arshad sustained injuries on their person. Contrary, a day before accused Khalid Khan and Aziz Khan etc have shown arrested in case vide FIR No 478 dated 29.05.2011 u/s 506/34 PPC of PS Khazana. Where upon an impartial enquiry conducted by the Investigation Staff on the application of complt: Wherein it was declared that all this episode of alibi prepared by Asghar Khan complt: vide FIR No 478 dated 29.05.2011 u/s 506/34 PPC of PS Khazana with the full support of connivance of the then SHO Razi Khan and SI Sabir Khan to give cover to the nominated accused for committed occurrence of murder at Nowshera Kalan. In this connection, 109 PPC were added in the murder case of Noshera Kalan upon the orders of High-ups of investigation-unit in which SI Razi Khan and SI Sabir Khan were accused of murder case. They got BBA but later on rejected by the honorable court and sent them to



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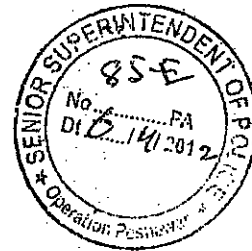
Conclusion/Suggestion

Keeping in view afore mentioned discussion in detail the undersigned  
me to a firm of opinion and suggestion that both the officers of PS Khazana are not charge  
by the complt: party in FIR directly but charged later on, the case is lying in the court for its  
trial and verdict, after the decision of court verdict it would be seen later about their  
punishment if they found guilty in the conspiracy, let the court probe the matter. For the time  
being it is suggested that enquiry paper may kindly be kept till the decision of honorable  
court whether they (both the Police Officers) were involved in such activities or otherwise.

Submitted please

*(Signature)*  
**(Shafi Ullah Khan)**  
**Superintendent of Police,**  
**Rural, Peshawar.**

W/SSP-Operations- Peshawar .



*Dsp Legal.*  
*For opinion.*

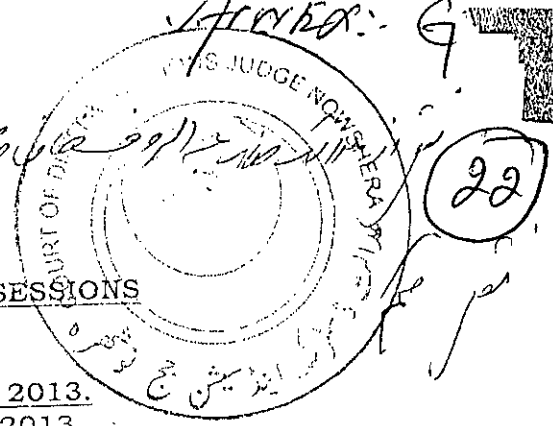
*(Signature)*  
Senior Superintendent of Police  
Operation Peshawar

*Mr Malik Habibullah .*  
*In the interest of ...*  
*(Signature)*  
*21/11/2012*

*(Signature)*

*عبد رافع خان*

**IN THE COURT OF ABDUR RAUF KHAN SESSIONS  
JUDGE, NOWSHERA.**



Sessions Case No.....14 of 2013.  
Date of Institution in this Court.....08/03/2013.  
Date of Original Institution.....31/11/2011.  
Date of decision.....13/06/2013.

The State....vs.....

1. Khalid Khan son of Alam Khan
2. Aziz Khan son of Alam Khan
3. Hamid Khan son of Khalid Khan
4. Arshid Khan son of Khalid Khan
5. Razi Muhammad son of Fazal Muhammad
6. Sabir Rehman son of Musali Khan
7. Sharif Jan son of Rashid Gul
8. Ajmal Khan son of Raza Khan
9. Asghar Khan son of Amin Jan

.....Accused facing trial

10. Fazal Subhan son of Alam Khan
11. Naveed son of Khalid Khan

.....Absconding co-accused

Case FIR No. 504 Dated 30/5/2011 as registered under section 302/324/427/148/149 PPC at Police Station Nowshera Cantt.

**JUDGMENT:-**  
13/06/2013

Accused Khalid Khan, Aziz Khan both sons of Alam Khan, Hamid Khan son of Khalid Khan, Arshid Khan son of Khalid Khan, Razi Muhammad son of Fazal Muhammad, Sabir Rehman son of Musali Khan, Sharif Jan son of Rashid Gul, Ajmal Khan son of Raza Khan and Asghar Khan son of Amin Jan have been challaned to this Court for facing trial in case FIR No.504 dated:30/5/2011 as registered under section 302/324/427/148/149/120B/109 PPC at police station Nowshera Cantt of District Nowshera. Similarly, the

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EXCISE & TAX  
AGENCY  
2013

*13/6/13*

prosecution has submitted challan against the absconding co-accused namely Fazal Subhan son of Alam Khan and Naveed son of Khalid Khan for proceeding them within the terms of section 512 Cr.P.C in the present case as they are willfully avoiding their arrest in the present case.

Briefly stated the facts of the prosecution case as disclosed in the above FIR are that, on 30/5/2011 complainant Fakhr-e-Alam in injured condition reported the occurrence in the casualty of DHQ Hospital, Nowshera alleging therein that at the eventful day of 30/5/2011 on metal road of Dheri Kati Khel near Zangli Hostel, he alongwith Irshad son of Mir Muhammad, Arshid son of Janab Gul, Raj Muhammad son of Irshad, his brother Rashid were in a criminal case in their motor car bearing No.LXY 2001 and he himself was driving the said car while Irshad Khan deceased was sitting besides him on the front seat and deceased Rashid, Raj Muhammad and injured Arshid were sitting in the rare seat of the said car and as they reached to the spot of occurrence at 7:30 AM of 30/5/2011, in the meanwhile, the accused Khalid Khan, Fazal Subhan, Aziz Khan sons of Alam Khan, Arshid, Hamid and Naveed sons of Khalid Khan duly

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13/6/11  
*[Signature]*

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armed with deadly weapons appeared all of a sudden and on seeing them, they started firing at them with their intention of putting them to death. That as a result of said firing, he alongwith Irshad Khan, Rashid, Arshid and Raj Muhammad were hit and were seriously injured. That out of the injured persons, Irshad Khan succumbed to his injuries in casualty of DHQ, Nowshera. According to the complainant, after committing the crime, all the accused decamped from the spot. The motive behind the occurrence has been alleged as previous blood feud enmity between the parties. It is pertinent to mention here that one of the injured namely Rashid and the second one Raj Muhammad also expired subsequently in the hospitals.

The prosecution allegations against the co-accused Razi Muhammad son of Fazal Muhammad, Sabir Rehman son of Musali Khan, Sharif Jan son of Rashid Gul, Ajmal Khan son of Raza Khan and Asghar Khan son of Amin are that a case vide FIR No.478 under section 506/34 PPC was lodged at police station Khazana, Peshawar on 29/5/2011, i.e, a day before of case FIR No.504 dated:30/5/2011 of police station Nowshera Cantt, wherein the four accused namely Khalid Khan, Aziz Khan, Hamid Khan and Arshid Khan were shown

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arrested a day before the occurrence by the police of police station Khazana, Peshawar. The said case FIR was investigated by the Crime Branch, Peshawar upon an application of Diaram (father of complainant Fakhr-e-Alam), in which inquiry, the accused Sharif Jan, Ajmal, Asghar Khan, Sabir Khan were also held involved alongwith SHO Razi Muhammad and ASHO Sabir Khan of police station Khazana, Peshawar for making criminal conspiracy alongwith principal accused for committing murder of three persons as mentioned above and injuring the complainant and PW Arshad Hussain.

After completion of investigation, challan against all the above named accused facing trial was submitted to this Court for putting them on trial while the absconding accused have been challaned for proceeding them under section 512 Cr.P.C. Accordingly, after recording statements of SW (which statement has been recorded as PW-1) for initiating proceedings against the absconding co-accused Fazal Subhan and Naveed and delivery of copies of relevant statements to the accused facing trial within the meaning of section 265-C Cr.PC, all the accused facing trial were formally charged on 21/1/2012 as to which they plead not guilty, hence, trial commenced.

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Examiner Agency  
Peshawar

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13/10/12

At the commencement of trial, the prosecution examined as many as nineteen witnesses, however, rest of the prosecution witnesses were abandoned by the prosecution as being un-necessary.

The brief description of the prosecution witnesses is given as under:-

PW-01 Johar Shah DFC 276, Police Station Nowshera Cantt.

According to PW-1 Johar Shah DFC, he was entrusted with warrant under section 204 Cr.PC against the accused Asghar, Fazl-e-Subhan, Ajmal Khan, Naveed and Sharif Jan and that he had searched them at their village and surroundings but they could not be found and the accused were avoiding their lawful arrest. That the warrant under section 204 Cr.PC are Ex.P-1 to Ex.P-5 while his report on its back are Ex.P-6 to Ex.P-10. According to PW-1, he had also been entrusted with the proclamation notices against the accused which notices are Ex.P-1/11 to Ex.PW 1/15 while his report on the back of notices are Ex.PW 1/16 to Ex.PW 1/20.

It has been admitted by the PW-1 during his cross statement that he had not mentioned the CNICs numbers of PW Waqas, Khidmat Shah, Gul Baz, Noyat Gul, Mir Salam

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Executive Magistrate  
District Court, Nowshera Cantt.

13/6/03



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and Changaiz. PW-1 has also admitted that he had not asked any Numberdar, Nazim or Councilor of the area for the execution of the warrants or otherwise.

PW-02 Syed Muhammad Hanif ASI, Police Station Akora Khattak, District Nowshera

According to PW-02 Syed Muhammad Hanif, during the days of occurrence, he was posted at Police Station Nowshera Cantt. PW-2 has chalked out FIR Ex.PW2/1 in the present case on receipt of murasila through constable Abdul Wakeel. PW-02 has also scribed daily diary No.15 dated:30/5/2011 Ex.PW 2/2 vide which information regarding the death of deceased Rashid was received.

PW-2 has admitted in his cross-statement that no case property was brought to the police station alongwith the murasila. PW-1 has also admitted that the addition regarding sections 120-13 read with section 109 PPC is not in his handwriting and there is no signature of its scribe. PW-2 has further admitted that column No.5 of the FIR is blank.

PW-03 Dr. Muhammad Jamal M.O D.H.Q Hospital Nowshera.

According to PW-03 Dr. Muhammad Jamal, he has examined the victim Arshad Hussain son of Chanab Gul and found the following,

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25 JUN 2013

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Case of firearm injury.

There was an entry wound on lower right chest 1/2 x 1/2 cm. Another entry wound was on back of right shoulder. Patient was referred to LRH, Peshawar for further management. PW-3 has produced his report as Ex.PW3/1 and he has also admitted his signature over it.

According to PW-3 he has also examined the victim Rashid s/o Dilaram and on his examination he was found the following,

Case of firearm injury.

There were multiple entry and exit wounds on front and back of right-side of his chest. There were entry and exit wound on lower part of right forearm on his posterior and medial aspect respectively. According to PW-3, the patient was referred by him to LRH Peshawar for further management. PW-3 has produced his report to this regard which is Ex.PW3/2. PW-3 has also admitted his signature over his report Ex.PW3/2.

According to PW-3 he has also examined the victim Raj Muhammad s/o Irshad Khan and has found the following,

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Sub-Inspector Azam  
Peshawar, Dist. Peshawar

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Case of firearm injury.

There was one entry wound on the right side of his abdomen. There was another entry wound on back of his right shoulder. According to PW-3, the patient was referred to LRH, Peshawar for further management. PW-3 has produced his report which is Ex.PW3/3. PW-3 has also admitted his signature over Ex.PW3/3.

PW-3 has also examined the victim Fakhr Alam s/o Dilaram and found the following,

Case of firearm injury.

There were multiple small superficial entry wounds on back of his right shoulder, each measuring 1 x 2 mm. A superficial entry and exit wound on the lateral aspect of his right buttock. That the said wound was oval in shape 1 1/2 inch in size. According to PW-3, there was an elongated graze on lateral aspect of right buttock size 1 1/2 inches. PW-3 has referred the victim to LRH, Peshawar for further management. PW-3 has produced his report which is Ex.PW3/4 and he has admitted his signature over the said report,

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Investigating Agency  
Gardian, Peshawar

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According to PW-3, he has also conducted the postmortem on the dead body of the deceased Irshad Khan son of Mir Muhammad whose body was identified by Fazal Hayat and Muhammad Riaz on his examination, PW-3 has found the following,

Date and time of death = 30.05.2011 at 07:30 A.M.

Examination of the body = 30.05.2011 at 0845 A.M.

Dispatch of matter to chemical examination.

Clothes were handed over to police.

Symptoms observed before death = Nil.

Information furnished by police FAI.

EXTERNAL APPEARANCE.

Mark of ligature on neck and dissection etc....Nil.

Condition of subject...Stout.

WOUNDS, POSITIONS, SIZE AND NATURE

1. A large entry and exit wound on anterior aspect lower part of left forearm with fracture. (3 x 3 inches.).
2. An entry wound on posterior aspect of left arm (1.5 x 1.5 cm). Exit wound on anterior aspect of left shoulder (1.5 x 1.5").
3. An entry wound (1.5 x 1.5 cm) on lower part at lateral aspect of right side of chest. Exit wound is

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Executive Agency  
Branch, L.S.D. Nowshera

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on lower part and lateral aspect of left side of chest  
(1 x 1").

4. An entry wound (1 x 1 cm) on left iliac fossa. Exit  
wound on lateral aspect of left buttock (1.5 x 1.5  
cm).

5. An entry wound on posterior lateral aspect of middle  
of right thigh (1 x 1 cm), exit wound is on anterior  
aspect of mid right thigh with fractured bone (1 x  
1").

Cranium & Spinal Cord:

Intact

Thorax:

Walls, ribs and cartilages fractured on  
corresponding entry and exit wounds.

Plurae, right lung, left lung, pericardium and  
heart, blood vessels injured.

Abdomen:

All the organs are intact and healthy except  
colon which injured on left side. Stomach intact with  
semi solid food.

Small intestine is intact with semi digested food.

MUSCLES, BONES, JOINTS:

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Ribs on corresponding sides fractured. Left radius, ulna and humerus fractured. Left hand bone fractured.

OPINION:-

According to PW-3, in his opinion cause of death in this case is multiple firearm injuries to vital body parts causing severe bleeding leading to shock and death.

Probable time in between injury and death

Instantaneous

Probable time between death and PM = About one hour.

According to the Pw-3, his report Ex.PW 3/5 consisting of six sheets correctly bears his signature.

PW-3 has also conducted the postmortem on the dead body of the deceased Rashid son of Dilaram resident of Kati Khel and has found the following,

- 1. An entry wound on back of right side of scalp with fractured scalp ( 1 x 1 cm). Exit wound is

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Sub-Inspector, Police Station, Kati Khel

- on upper part of right side of scalp with fracture skull and protruty brain 1 x 1" .
2. An entry wound on back of right side of chest below scapula 1 x 1 cm. Exit wound is on upper part of right side of chest 1 x 1 cm.
  3. An entry wound is on upper part of right side of chest 1 x 1 cm. Exit wound on the same side 2" below exit wound 1 x 1 cm.
  4. Another entry wound on right side of chest upper part (0.5 x 0.5 cm). Exit wound on same side about 2" below entry wound.
  5. An entry wound on posterior lateral aspect of lower party of right forearm 1.5 x 1.5 cm. Exit wound is on medial aspect lower part of right forearm 1 ½ x 1 ½ inches.

CRANIUM & SPINAL CORD:

Skull fractured, membrane and brain injured.

THORAX.

Walls, ribs, cartilages injured/damaged on right side. Pleurae injured on right side, blood vessels are injured.

ABDOMEN:-

APPROVED  
 SECURITY  
 CONTROL  
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Intact. Stomach and its contents intact with semi solid food. Small intestine and its contents...intact with semi digested food. Large intestine...intact.

MUSCLES, BONES AND JOINTS:-

Skull fractured. Ribs fractured on corresponding sides. Radius and Ulna fractured on right side.

Probable time in between injury and death.....about two hours.

Probable time between death and Post Mortem...about 01 hour.

REMARKS:

The cause of death in this case is fire arm injury causing injury to vital organs i.e brain, right lung, blood vessels resulting in massive bleeding causing shock and death.

PW-3 has handed over Post Mortem report and clothes to the police. According to PW-3, the Post Mortem report alongwith pictorial is Ex.PW3/8 which correctly bears his signature. PW-3 has also endorsed the inquest report of the deceased and according to

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him his endorsement on the subject inquest report is  
Ex.PW3/9.

PW-04 Majid Khan son of Bashir Khan r/o Dheri Kati Khel District Nowshera.

According to PW-4, on 2/6/2011 he had identified the dead body of the deceased Raj Muhammad son of Irshad Khan who had expired at about 1030/1045 hours at LRH, Peshawar and who had been taken to KMC for his postmortem examination. PW-4 has admitted his signature over the inquest report.

PW-05 Bakhshed Gul s/o Nawaz Gul R/o Dheri Kati Khel District Nowshera.

According to PW-05, on the day of occurrence, he had identified the dead body of the deceased Rashid before the police as well as before the doctor. PW-05 has admitted his signature on the inquest report.

PW-06 Muhammad Riaz s/o Khawas Khan aged about 51/52 years r/o Hakim Abad Dheri Kati Khel District Nowshera.

According to PW-06 Muhammad Riaz, he had identified the dead body of deceased Irshad Khan before the doctor and police. PW-06 has admitted his signature upon the inquest report. PW-06 has further stated that he is a taxi driver and on the day of occurrence he was going to Akora Khattak in his taxi car alongwith his passengers. According

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Nowshera.

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to PW-06, he had seen the accused facing trial namely Aziz Khan, Khalid, Fazal Subhan, Arshad, Naveed and other co-accused nearby the place of occurrence. PW-06 has stated thereafter, he had left to Akora Khattak for a Doctor whereby he was informed about the occurrence and therefore he had rushed to the Hospital.

PW-6 has admitted in his cross statement that only once his statement was recorded by the police. PW-6 has admitted that his statement was recorded between 1400 hours to 1500 hours. PW-6 has admitted that he himself had not shown the alleged place to the police where the accused were present prior to the occurrence.

PW-07 Murad Ikram s/o Asmatullah R/o Dheri Kati  
Khel District Nowshera.

According to PW-7 Murad Ikram, on 30.05.2011 at about 07:20 AM, he was proceeding to taxi Stand Hakimabad where he had noticed that the accused Khalid Khan, Fazal Subhan, Aziz Khan, Naveed, Hamid and Arshad (while duly armed) were standing at GT road Meeto Khan Market. According to PW-7, after some time he was informed about the present occurrence.

It has been admitted by the PW-7 in his cross statement that son of deceased Irshad Khan is his brother in

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law (Humzulf). PW-07 has admitted that the shops are situated on either side upto the GT road where he had seen the accused. PW-07 has admitted that his statement was recorded on the 5<sup>th</sup> day of the occurrence at noon time. PW-07 has also admitted that his statement was recorded in the hujra of Dilaram Khan and many people were present there at that time.

**PW-8 Fazal Hayat s/o shehzad Gul R/o Dheri Kati  
Khel District Nowshera.**

According to PW-08, on the day of occurrence he was going from his home to purchase some material of livelihood at Hakim Abad and that when he had reached near the house of accused Khalid etc, he noticed accused Khalid, Aziz Khan, Fazal Subhan, Hamid, Arshad and Naveed (duly armed) as boarding in their motorcar and were proceeding towards Hakimabad. That on reaching GT Road, the accused party turned towards East and he also turned towards East and went to the nearby CNG Station where he filled CNG in his vehicle/Suzuki. That after filling CNG in his vehicle, he turned back in U-turn near the CNG Station of accused Khalid Khan and proceeded towards Hakimabad. That he had seen the accused mentioned above while duly armed with weapons near CNG Station of Khalid Khan. PW-8 had

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also identified the dead body of deceased Irshad Khan before the doctor as well as police in DHQ Hospital Nowshera and he had admitted his signature on the inquest report.

PW-08 has admitted in his cross statement that when the dead body of deceased was picked up he identified his body there in presence of doctor and police and it was about 8:45/9:00 AM when the dead body was picked up. PW-08 has admitted that it was 06:30 AM when he had seen the accused while boarding in their motorcar.

PW-09 Abdul Wakeel No.668, police station Nizampur.

According to PW-09 Abdul Wakeel, during the days of occurrence he was posted at Casualty DHQ Hospital, Nowshera and he had taken the murasila to the police station which was handed over to him by Nawar Khan ASI.

It has been admitted by PW-09 in his cross statement that the SI Nawar Khan had consumed about 20 minutes on the drafting of murasila. PW-09 has admitted that Jehanzeb Khan IO had recorded his statement in police station between 09:00/09:30 AM.

PW-10 Zahoor Ahmad No.543, HC of Police Station Nowshera Cantt, District Nowshera.

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Nowshera

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According to PW-10 Zahoor Ahmad No.543, he is the marginal witness to the recovery memo Ex.PW 10/1 vide which the IO had taken into his possession blood through cotton from various points inside the motorcar bearing No. LXY-2001 Cultus where the deceased Irshad Khan, Raj Muhammad, Arshad Hussain, injured Fakhr-e-Alam and Rashid were sitting and the vehicle mentioned above was also taken into possession by IO. According to PW-10, the broken pieces of the glass and various empties of different calibers, i.e, 94 of 7.62 bore, 06 empties of 30 bore and 02 empties of 9 mm were recovered and taken into possession. PW-10 is also the marginal witness to the recovery memo Ex.PW 10/2 vide which the IO had taken into his possession blood stained garments of deceased Rashid consisting upon Qamiz, Shalwar white colour alongwith white banyan, blood stained garments of deceased Irshad Khan consisting upon Qamiz, Shalwar alongwith white Banyan, blood stained garments of deceased Raj Muhammad consisting upon Qamiz, Shalwar cream colour and Banyan white colour, blood stained garments of injured Arshad Hussain consisting upon Qamiz, Shalwar cream colour, jacket white colour, blood stained garments of injured Fakhr-e-Alam consisting

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upon Qamiz, Shalwar white colour alongwith white banyan.

PW-10 has admitted his signature over the above mentioned recovery memos.

It has been admitted by the PW-10 that he can not mention the place/point wherefrom the blood of injured Arshad Hussain was recovered. PW-10 has also admitted that they had remained on spot for about 2 ½ hours and relatives of the complainant party were present at the time of spot inspection.

PW-11 Dr. Sahibdad Khan, Lecturer KMC, Peshawar.

According to PW-11 during the days of occurrence he was posted at KMC as Senior Lecturer. According to PW-11, on 02.06.2011 at 11:55 AM, he had conducted the postmortem on the dead body of deceased Raj Muhammad son of Irshad Khan where he had found the following:-

EXTERNAL APPEARANCE:-

Condition of the deceased was a young man of good built wearing sky blue Qamiz, Shalwar, Clothes has not firearm defects (Clothes changed probably). Rigor mortis and P.M lividity just started developing.

INJURIES:

ATTESTED

Examiner, Forensic Agency  
Peshawar, PAKISTAN

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1. Firearm entry wound on right side of front of abdomen 0.5 x 0.5 cm insize, 13 cm from midline, 12 cm above anterior superior iliac spine.
2. Firearm entry wound on left side lower back, 0.3 x 0.3 cm ensize, 11 cm from midline 4 cm above posterior iliac crest.
3. Firearm exit wound 0.4 x 0.4 cm insize, 13 cm from midline, 1 cm above posterior iliac crest.
4. Firearm entry wound on right side back of right shoulder join, 0.5 x 0.5 cm insize 2.5 cm below the tip of shoulder and 12 cm from midline this wound shows extension by surgical incision and a pack present in wound.
5. Firearm wound 0.3 cm x 0.3 cm insize, 6 cm below the injury No.4.
6. Firearm wound 0.3 x 0.3 cm insize, 9 cm below entry No.5.
7. A metallic piece recovered from the upper thoracic wall blackside.

I have also given note of the injuries in the pictorial page.

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Note:- Injury No.5 is skin deep only and No.6 is muscles deep only, No.7 a metallic piece recovered from the side.

He has also given another note on the same page regarding X-rays etc.

Note:- As both electricity and X-ray Machine of this department were not functional so it was not possible to precisely locate the bullet etc and without precised location the removal of bullet etc results in lot of damage to the body. So hospital X-rays attached as they show the bullet etc in the body.

Blunt trauma forehead depressed, forehead bleeding from nose and right ear.

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CRANIUM & SPINAL CORD:

Vertebrae and spinal cord.....injured in the thoracic spine and rest were healthy.

THORAX:-

Walls.....injured

ABDOMEN:-

Muscles of the wall of the abdomen only injured.

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Examined by: [Signature]  
Agency  
D.D.S. (Newspaper)



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OPINION:-

In his opinion the deceased died due to injuries to the spinal cord due to firearm.

Probable time in between injury and death.....Hospitalized.

Probable time between death and PM.....two to four hours.

PW-11 has handed over the garments and a metallic piece recovered from the dead body to the police and his post mortem report is Ex.PW 11/1. The endorsement of PW-11 on inquest report is Ex.PW 11/2.

PW-12 Fakhr-e-Alam s/o Dilaram Khan R/o Dheri Kati Khel District Nowshera.

According to PW-12 Fakhr-e-Alam (who is complainant in the present case), on 30.05.2011 they were going in their motorcar No.LXY-2001 Cultus to District Courts Nowshera for attendance in a criminal case. According to PW-12, he was driving the said motorcar while Irshad Khan deceased was sitting on front seat and deceased Rashid, Raj Muhammad and injured Arshad were seating on the rear seat of his car. According to PW-12, when they reached to the spot of occurrence, accused Khalid, Fazal Subhan, Aziz

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Examiner Copying Azam  
Bachh, D.S.J. Nowshera.

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Khan, Arshad, Hamid and Naveed duly armed appeared there and started firing at them, as a result of which firing, they all sitting in the above motorcar sustained serious injuries and after the occurrence they were shifted to DHQ Hospital Nowshera. According to PW-12, they were informed in the hospital to the effect that Irshad Khan had succumbed to his injuries. PW-12 has reported the matter to the local police present in the Hospital wherein he had charged all the above named accused for the murder of deceased Irshad and attempting at the lives of his other companions mentioned above. The motive behind the offence has been stated to be previous enmity with the accused party. PW-12 has admitted his signature upon murasila which is Ex.PW12/1. According to PW-12, after providing first aid by the medical staff present in the hospital, he was referred to LRH, Peshawar and on reaching LRH, Peshawar, he got information to the effect that the injured Rashid had succumbed to his injuries. PW-12 remained admitted in LRH, Peshawar and was discharged from the Hospital on the fourth day. According to PW-12, the injured Raj Muhammad also expired on the fourth day and he came back to his village on the same day. PW-12 has further stated that on the date of his discharge,

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 District Attorney  
 Nowshera

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the local police had come to his Hujra wherefrom he accompanied the I.O to the spot and where he explained positions of the injured in the motorcar as well as different positions of the accused at the time of commission of offence on the spot. That the I.O showed him the site plan which on his perusal was found correct. PW-12 has admitted his report and signature on the report which is Ex.PW12/2. PW-12 has stated that the accused party had shown themselves arrested in a fake and bogus case as registered at Police Station Khazana Peshawar, before the present case and in this connection, his father Dilaram Khan had submitted an application to I.G Police to probe into the matter. That accordingly, an inquiry was conducted where it was found that the case of police station Khazana was fake which was registered with the connivance of the present accused and some of their friends. PW-12 has further stated that he had recorded his statement before the learned Judicial Magistrate, Nowshera under section 164 Cr.P.C on 04.10.2011 for charging Razi Muhammad, Sabir Khan Police officials, Sharif Jan, Asghar and Ajmal for their criminal conspiracy with the accused Khalid etc.

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It has been admitted by the PW-12 in his cross statement that the site plan was verified from him on 2/6/2011. PW-12 has admitted that he had mentioned in his second statement that Raj Muhammad was injured. PW-12 has also admitted that no empty was present on spot on the day of verification of site plan, i.e, 2/6/2011. PW-12 has admitted that the injured Rashid and Arshad were taken to the hospital in Suzuki pickup while he and then injured Irshad were taken to hospital in a motorcar driven by his brother Mir Alam Khan. PW-12 has admitted that he was a single official to whom he was reporting the matter and who was writing the same. PW-12 has admitted that all the accused were armed with weapons, however, he can not say that which accused was having which type of weapon. PW-19 has admitted that the accused were in C-formation at the time of firing. PW-19 has also admitted that the accused appeared from the western side of the thoroughfare and fired at them. PW-12 has admitted that he had not noted any bullet marks on his car as he had left the same on the spot and thereafter it was not shown to him. PW-12 has admitted that the accused facing trial were arrested by the police station Khazana and thereafter they were transferred to

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 District Court Officer  
 District Court, Ferozshah

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district Courts Nowshera and were formally arrested in the instant case. PW-12 has admitted the place of occurrence as surrounded by the market of Mitto Khan and residential house of other person.

**PW-13 Arshad Hussain son of Janab Gul aged about 26/27 years resident of Dheri Kati Khel, District Nowshera.**

According to PW-13 Arshid Hussain, on 30/5/2011, he alongwith Irshad son of Mir Muhammad, Rashid Khan son of Dilaram Khan, Raj Muhammad son of Irshad Khan and Fakhr-e-Alam son of Dilaram Khan were proceeding to Nowshera from village Dheri Kati Khel in their motor car bearing No. LXY 2001 which was driven by Fakhr-e-Alam and where Irshad Khan was sitting with him in front seat while he alongwith Raj Muhammad and Rashid were sitting in the rear seat. According to PW-13, all of a sudden, accused Khalid, Fazal Subhan, Aziz Khan, Arshid, Hamid and Naveed (while duly armed) appeared there and started firing at them. That as a result of their firing, they all got seriously injured and were shifted to DHQ Hospital, Nowshera where injured Irshad expired in casualty and injured Fakhr-e-Alam reported the matter to police which was recorded in shape of murasila. That report of Fakhr-e-

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Alam was verified by him as correct. PW-13 has admitted his signature upon murasila. According to PW-13, they were cursory examined in DHQ Hospital, Nowshera and therefrom they were referred to LRH, Peshawar. According to PW-13, the then injured Rashid succumbed to his injuries while on his way to LRH, Peshawar. That on the following day, his statement was recorded under section 161 Cr.PC by IO in LRH, Peshawar and where he had charged all the accused for the murder of Rashid. According to PW-13, the then injured Raj Muhammad had also expired in LRH, Peshawar. PW-13 has once again charged accused mentioned above for the murder of Irshad Khan, Raj Muhammad and Rashid and for attempting at his life as well as at life of Fakhr-e-Alam.

In his cross statement, it has been stated by the PW-13 that from the day first, the site of alleged occurrence has not been asked from him for its verification by IO. PW-13 has further added that as firing was all of a sudden that's why they were not given any chance to escape. He had however, stated that they tried to take shelter inside the vehicle. According to PW-13, he was having no personal case in Nowshera Courts on day of occurrence. PW-13 has deposed that he had no enmity with the accused party. PW-13 has

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further stated that Mir Alam Khan and Dilaram Khan were also going for Court in other car. According to PW-13, the accused person appeared from West side and they were in C-Formation at the time of occurrence. PW-13 has further stated that all deceased and injured had remained in car and no body came out of car at the time of firing.

PW-14 Nawar Khan SI, Casualty DHQ, Nowshera.

According to PW-14, on 30/5/2011 the injured Fakhr-e-Alam, Arshad, Rashid, Raj Muhammad and Irshad were brought to casualty in injured condition where amongst them one Irshad Khan had died in casualty. That injured Fakhr-e-Alam reported the matter to him which was reduced in writing in shape of murasila already Ex.PW 12/1. That murasila was read over by him to complainant which was signed by him as a token of its correctness. That the said murasila was also signed by the injured Arshad as its verifier. That he has also prepared injury sheet of Fakhr-e-Alam which is Ex.PW 14/1 and likewise, the injury sheets of the other injured Irshad Hussain, Raj Muhammad and Rashid which are respectively Ex.PW 14/2 to Ex.PW 14/4.

According to PW-14, he had also prepared the injury sheet and inquest report of Irshad Khan which are Ex.PW 14/5

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the signature on FIR, the same was found to be signed by some one else and the same is not his signature. According to PW-15, he has recorded statement before the IO which is Ex.PW 15/1 and the signature on the above FIR is not of him.

PW-16 Zia ur Rehman, Senior Civil Judge, Peshawar.

According to PW-16, Mr. Zia ur Rehman, on 4/7/2011, he in his capacity as Senior Civil Judge/Judicial Magistrate, Nowshera has recorded the statement of complainant Fakhr-e-Alam under section 164 Cr.PC. PW-16 has admitted his signature upon memorandum alongwith the request of police which is Ex.PW 16/1 and statement of complainant Fakhr-e-Alam which is Ex.PW 16/2.

PW-17 Afsar Khan, Inspector, Crime Branch, Peshawar.

According to PW-17 Afsar Khan, Inspector Crime Branch, a board was constituted on the application of one Dilaram Khan son of Dil Muhammad resident of Dheri Kati Khel and an inquiry was entrusted to the team headed by Mian Naseeb Jan, DSP and its members consisting of him and Ayaz Khan. According to PW-17, the said application is Ex PW 17/1. That after receipt of file of case FIR No.478

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dated:29/5/2011 as registered under section 506/34 PPC at police station Khazana on 29/5/2011, the team visited the spot and also checked the roznamcha of police station Khazana of the same day. That as per record of roznamcha register, Nasir Khan SI had not shown his departure from police station to the spot, however, he had mentioned it in the case diaries of the case. PW-17 has placed copies of Roznamcha report from 28/5/2011 to 30/5/2011 on file and he has also attested concerned pages of the register vide his signature dated:5/7/2011. The relevant copies of said Roznamcha are Ex.PW 17/2 (consisting of 10 sheets). PW-17 has also checked FIRs in the register of FIRs in police station of the date 29/5/2011. In the said register, PW-17 has also checked FIRs No.474 to 482 of 29/5/2011, copies of above FIRs are placed on file by PW-17 and which are Ex.PW 17/3 to Ex.PW 17/12. PW-17 has also checked register pertaining lockup of police station Khazana dated:29/5/2011 and he has placed on file copies of the said register alongwith name of accused. PW-17 has also taken into his possession vide recovery memo Ex.PW 17/13, the attested copies of list of accused mentioned above which were produced to him by additional Muharrir of police station Khazana namely Tahir

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Station Officer, Khazana

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Khan. PW-17 has also examined three accused, Muzammil Shah of case FIR No.474 registered under section 13 AO, accused Salman of case FIR No.481 as registered under section 9 CNSA and Saad Ullah of case FIR No.480 as registered under section 9 ( A ) CNSA. According to PW-17, he had investigated matter from above mentioned accused as charged in the above FIRs (who were confined in lockup of police station Khazana) and they confirm to him that they were kept in police station Khazana till 12:00 AM of 29/5/2011 and according to them, during this time four white collared persons were brought, who were quite disturbed in the lockup. According to PW-17, the above named accused have also informed him that they were released by SHO without any surety bond or any endorsement in roznamcha. According to PW-17, Khalid and three others were taken from police station Khazana by Nasir Khan ASI to the Court of Judicial Magistrate for police custody and to this effect mad No.36 dated:30/5/2011 was scribed vide which they had shown departure from police station at 0945 AM. The said mad is Ex.PW 17/14. PW-17 has also examined the complainant of case FIR No.478 Asghar Khan son of Amin who has produced a stamp paper

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bearing No.1550 dated:16/2/2010 vide which, the same plot was sold out by one Ajmal to one Asghar at cost of Rs.11,50,000/-. According to PW-17, that very deed which was scribed by one Shafat Ullah and the said Shafat Ullah, was also contacted by him and his statement was recorded. According to PW-17, the said Shafat Ullah had informed him that he had written deed upon request of Ajmal Khan who was not accompanied by Asghar Khan and which deed was also signed by a single witness. PW-17 has stated that at his 1<sup>st</sup> appearance, the said Asghar Khan was not in possession of above deed, so the same was lateron prepared by him factitiously. According to PW-17, when he asked Asghar Khan as to how he came to know about the names of the accused, he replied that he had known their names on telephone from Ajmal Khan and Sharif Jan who had also come to the spot. According to PW-17, as per the narration of Asghar Khan, he had purchased plot in question from Ajmal Khan at the cost of Rs. 11,50,000/- and which plot was lateron sold by him to accused Khalid Khan for a sum of Rs.9,45,000/-. According to PW-17, he has also inquired from Patwari Halqa about the ownership of the disputed plot where he was informed that as the whole record pertaining

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to plot in question was retained by National Accountability Bureau so he was unable to produce the same. According to PW-17, he approached to Akbar Khan, Inspector who was deputed at that time in National Accountability Bureau where he was informed that the plot in question was ownership of one Ubaid and not in the name of Asghar etc. According to PW-17, prior to FIR No.478, another FIR was registered by Ajmal Khan against Khalid etc on 1/3/2011 under section 506 PPC in the same police station and according to him in both the FIRs, time of occurrence was the same. PW-17 has further stated that as per version of Ajmal Khan, he has patched up the matter with accused Khalid etc and he himself had written a compromise deed. According to PW-17, when he summoned witnesses of the compromise deed, they informed him that their thumb impressions were obtained on a blank paper with one Taj Ali. PW-17 had also approached accused facing trial who were in Judicial Lockup, Nowshera where he had recorded their statements in presence of Superintendent Jail, Nowshera. PW-17 has also collected telephone data of accused Khalid Khan, Sharif Jan, Asghar, Sabir, Nasir Khan and Ajmal. According to PW-17, as per version of the accused they had

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not contacted each other prior or after the occurrence but according to data, all the accused were in contact before and after the occurrence. PW-17 has also collected the line number data of police station Khazana and he has also collected the details of visitors to the accused in Judicial Lockup, Nowshera and Central Jail, Peshawar. PW-17 had also recorded statement of one independent person namely Mian Rasheed Gul who has reported that on 29/5/2011, while he alongwith Khan Zali were present on the spot of occurrence at evening time, five persons had come there in white colour Alto Motorcar who had dcboarded from the motorcar and the person duly armed with Kalashnikov had told his other companions for holding him as he was going to make firing. That his other companion obeyed his order, upon which, other seven persons present there made firing in retaliation. PW-17 has also submitted an application for recording statement of Mian Rasheed Gul under section 164 Cr.PC before the Judicial Magistrate, Peshawar, attested copy of which is Ex.PW 17/19. PW-17 has also recorded statement of Fazli Raziq ASI wherein he has denied his signature over FIR No.478. PW-17 has also recorded statement of Fazli Khalig ASI to the effect that SHO Razi

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Muhammad had contacted him through telephone at his home where it was disclosed to him that that they were going to chalk out an FIR and that the investigation of the said case would be handed over to him. That according to Fazli Khalid ASI, it was refused by him to the SHO. PW-17 alongwith other members of inquiry has prepared a final report in which each and every thing is mentioned alongwith their final opinion which had been submitted by them to their high ups. The subject inquiry report prepared by the inquiry team is Ex.PW 17/20 (consisting of 18 sheets). According to PW-17, the said inquiry report was submitted to their high ups whereafter to Provincial Police Officer, KPK. PW-17 has stated that they had conducted inquiry in honest manner and no concession was made with any one. PW-17 has also produced the telephone data of accused Asghar which is from page 1 to 44 and is Ex.PW 17/21. Similarly, PW-17 has also produced telephone data of accused Aziz Khan from page No.1 to 15 which is Ex.PW 17/22. According to PW-17, he has also collected telephone data of accused Sharif Jan which is Ex.PW 17/23 (consisting of 90 pages). The data of accused Sabir Khan, SI was also collected by PW-17 which is Ex.PW 17/24 (consisting from page 1 to 93).

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Similarly, the mobile data of the said accused is Ex.PW 17/25 (consisting from page 94 to 176). PW-17 has also collected the mobile data of Nasir Khan SI which is Ex.PW 17/26 (consisting of 57 pages). PW-17 has collected the mobile data of accused Ajmal Khan which is Ex.PW 17/27 (consisting of 50 pages). PW-17 has also collected and placed on file, the PTCL and mobile data of police station Khazana which consists of 24 pages. PW-17 has also placed on file the statements of accused Khalid, Hamid, Aziz and Arshid which are Ex.PW 17/33 (consisting of 08 sheets). According to PW-17, these statements were recorded in the presence of Superintendent Jail, Nowshera and each statement has been attested by the Superintendent Jail, Nowshera. PW-17 has also placed on file the written statement of Fazli Khaliq ASI which statement was handed over to him by Mian Naseeb Jan DSP. PW-17 has also placed on file the written statement of Razi Muhammad SHO who was cross examined by him. PW-17 has also placed on file the telephone number verification of accused Khalid Khan and similarly he has also placed on file mobile phone data of accused Arshad and Khalid.

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It has been admitted by the PW-17 in his cross statement that the telephone data produced by him has not been attested by concerned agency/company from where it was obtained. PW-17 has also admitted that he has not examined any person. PW-17 has also admitted that there is nothing on record that as to what nature of conversation has taken place between the persons on the said telephone numbers. PW-17 has also admitted that there is no record regarding direct communication of the accused Khalid, Aziz, Hamid and Arshad with any police officer of police station Khazana or with complainant party of FIR No.478 or FIR No.153 of the year 2011 as registered at police station Khazana. PW-17 has admitted that he had examined Nasir Khan IO who had fully supported investigation in case FIR No.478 of police station Khazana. PW-17 has admitted that he has made no request to any agency for the provision of conversation of the above mentioned mobile numbers. PW-17 has admitted it correct that he has not examined the accused who were confined in police station Khazana namely Muzammil, Suleman and Asad Ullah under section 164 Cr.PC as witnesses. PW-17 has further admitted that he has not examined the other accused namely Tahir Ullah, Jan

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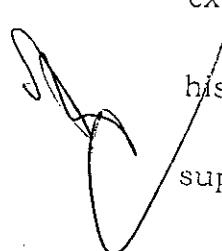
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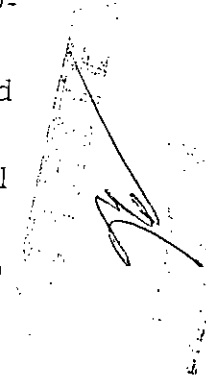


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Muhammad, Zahoor Khan, Rabbani, Siraj and Nizam who had been confined with the accused facing trial in police station Khazana. PW-17 has admitted it correct that every police officer is under legal obligation to register an FIR pertaining to cognizable offence within the meaning of section 154 Cr.PC. It has been admitted by PW-17 that he had recommended after the completion of his enquiry that FIR No.478 be submitted in the Court under section 34 of the Aerial Firing Act. According to PW-17, he had examined Additional Muharrir Muhammad Yusuf who has stated to him that from 1030 PM of 29/5/2011 till 08:00 AM of 30/5/2011, the accused had remained present in the lockup of police station Khazana and that at 08:00 AM of 30/5/2011, the said accused were handed over to SI Nasir Khan of investigation staff. PW-17 has also placed on file the said statement of Muhammad Yusuf which is Ex PW 17/D-12. PW-17 has admitted it correct that the said Muhammad Yusuf was on duty from time of arrest of the accused till their handing over to IO Nasir Khan. PW-17 has also examined one Muhammad Naeem Khan who had performed his duty with the above Muhammad Yusuf and who had supported the version of the said Muhammad Yusuf. PW-17

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has also recorded the statement of one Centhry ( )  
 Sharbat Ali No.2266 who has performed his duty over the  
 lock up of police station Khazana from 2300 hours of  
 29/5/2011 till 5:00 AM of 30/5/2011. According to PW-17,  
 as per statement of the said Sharbat Ali, the accused Khalid  
 and others were present in the lock up of police station  
 Khazana. PW-17 has not recorded the statement of guard  
 Faqir Gul No.1577 of lock up who has performed his duty  
 onward to 0500 AM on 30/5/2011. PW-17 has admitted it  
 correct that there is no communication through mobile in  
 between Ajmal complainant of FIR No.153 and Khalid etc.  
 Though, PW-17 has mentioned one Sharif Jan the gang  
 leader of case FIR No.153 and 1178 of police station  
 Khazana but according to him, the said Sharif Jan was  
 neither accused nor PW in the above referred FIRs. PW-17  
 has also examined no one about the friendly relations  
 amongst the said Sharif Jan and accused persons. According  
 to PW-17, his such version is based on the statement of one  
 Mian Rasheed Gul as recorded under section 154 Cr.PC.

**PW-18 Mian Naseeb Jan, DSP Headquarter Swat.**

According to PW-18, during the days of occurrence, he  
 was posted as DSP Crime Branch, Peshawar. That upon the

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application of Dilaram Khan to PPO, KPK an investigation/inquiry team was constituted which was headed by him and was consisting upon Inspector Afsar Khan and Muhammad Ayaz SI. PW-18 had supervised the inquiry team and he had admitted that the inquiry report already Ex PW 17/20 correctly bears his signature. According to PW-18, after the submission of their report, the report and recommendation was given by SSP Investigation namely Muhammad Yamin Khan (consisting upon 7 pages) which is Ex PW 18/1 and that the same correctly bears his signature. PW-18 has also placed on file the letter of the Additional IGP Ex.PW18/2 and order of PPO, KPK Ex.PW18/3.

**PW-19 Jehan Zeb Khan SI, Police Station Nowshera Cantt.**

According to PW-19 Jehan Zeb Khan, after registration of FIR, the investigation of the instant case was entrusted to him. PW-19 had visited the spot where he has prepared the site plan which is Ex.PW-19/1. PW-19 has further stated that during spot inspection, he had recovered and taken into his possession the motorcar which was having bullet marks on its body. According to PW-19, the motorcar bearing No.LXY-2001 was recovered and taken into possession from

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the spot and from the same motorcar, from point of deceased Rashid, he had recovered blood through cotton. Similarly, from the point of deceased Irshad Khan blood through cotton was also recovered and taken into possession and the same was also sealed into parcel No.2 which is Ex.P-2. PW-19 has also stated that prior to that, the blood stained cotton recovered from the point of deceased Arshad was also sealed into parcel No.1, Ex P-1. PW-19 had also recovered blood through cotton from the point of deceased the then injured Raj Muhammad and the same was sealed into parcel No.3 which is Ex.P-3. Similarly from the point of injured Arshad Hussain, blood through cotton was recovered and taken into possession by him and the same was sealed into parcel No.4 which is Ex.P-4. PW-19 has further stated that he had recovered blood through cotton from the point of injured complainant Fakhr-e-Alam which was sealed by him into parcel No.5 as Ex.P-5. Similarly, from point 'B' some broken pieces of glass of the vehicle were taken into possession by PW-19 which were sealed by him into parcel No.6, which is Ex.P-6. PW-19 had recovered from point C, 94 (Ninety four) empties of 7.62 bore which were sealed by him into parcel No.7, as Ex.P-7. Similarly 06 (six) empties of 30 bore were

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also taken into possession by PW-19 from point 'C', which were sealed into parcel No.8, as Ex.P-9 and 02 (two) empties of 9mm were also taken into possession by him from the same point which were sealed into parcel No.9, and is Ex.P-9. PW-19 had prepared the recovery memo to this effect which already stands exhibited as PW-10/1. PW-19 has admitted his signature as correct upon the Ex PW 10/11. According to PW-19, he had gone behind the accused to their respective houses where he searched them in the surrounding areas and to this effect he prepared the search memo, which is Ex.PW-19/2. According to PW-19 the accused were not found. PW-19 has also stated that he had recorded the statements of the injured PWs in the hospital. According to PW-19, when he returned back from the hospital, constable Sami ur Rehman had brought the blood stained garments of deceased Rashid consisting of qamiz, shalwar alongwith banyan (white color), which were sealed into parcel No.10, as Ex.P-10. Similarly, the blood stained garments of deceased Irshad Khan consisting of qamiz, shalwar alongwith banyan (white colour) were sealed by him into parcel No.11, which is Ex.P-11. Likewise the blood stained garments of deceased the then injured Raj

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Muhammad consisting of qamiz, shalwar (cream colour) and banyan (white colour) were sealed by him into parcel No.12 which is Ex.P-12. Similarly, the blood stained garments of injured Arshad Hussain consisting of Qamiz shalwar (cream colour) and jacket (white colour) having blood stained were sealed in parcel No.13 which is Ex.P-13. According to PW-19, the blood stained garments of injured Fakhr-e-Alam consisting of qamiz shalwar alongwith banyan (white colour) were sealed into parcel.No.14 which is Ex.P-14. PW-19 has admitted his signature over the recovery memo which is already Ex.PW-10/2. According to PW-19, vide Naqal Mad No.25 dated 30.05.2011 already Ex.FW-2/2, he had been informed by Nawar Khan, Incharge Casualty, DHQ Hospital, Nowshera that the injured Rashid had been died and he had entered this fact into roznamcha. PW-19 has further stated that during the course of investigation, he received information that accused Khalid Khan, Aziz Khan, Arshad and Hamid were arrested by the police station Khazana, District Peshawar and he had entered this fact into roznamcha and then had initiated preparation for the transfer of the accused. According to PW-19, he had issued the card of arrest of all the accused namely Khalid Khan,

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Aziz Khan, Hamid Khan and Arshad Khan and they had been arrested in the instant case from Central Jail, Peshawar. PW-19 has stated that he had applied for issuance of Zamima Bay of the accused mentioned above vide application Ex PW 19/4, which was issued accordingly. PW-19 had also applied for transfer of the accused mentioned above from Peshawar to Nowshera to the then Sessions Judge, Nowshera and to this effect, an order was passed which is Ex.PW-19/5. PW-19 has also submitted an application before the learned Sessions Judge, Peshawar for transit custody of the accused mentioned above which required order was passed on 01.06.2011 and transit custody was allowed to him, vide order Ex.PW-19/6. The accused were transferred by PW-19 accordingly. PW-19 has further stated that on the following day, all the accused were produced before the learned Judicial Magistrate, Nowshera for grant of police custody, vide his application Ex.PW-19/7 whereupon two days custody was allowed. According to PW-19, he had interrogated the accused and after the expiry of police custody, he had produced the accused for further custody vide his application Ex.PW-19/8, which was refused and the accused were remanded to Judicial lockup.

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According to PW-19, during the course of investigation, he had also visited LRH, Peshawar where he had recorded statements of the injured PWs. PW-19 has also stated that on 02.06.2011, Gul Shahzada SI, Incharge Casualty, LRH, Peshawar had informed that deceased the then injured Raj Muhammad had expired in the hospital and to this effect he had recorded Naqal mad No.12 dated 02.06.2011 which is Ex.PW-19/9. According to PW-19, on 03.06.2011, he had received the postmortem of the deceased, the injury sheets and the MLRs. According to PW-19, he had also recorded statements of the PWs of the recovery memos, identifiers, etc and had prepared the lists of legal heirs of deceased Raj Muhammad, Irshad Khan and Rashid, which are Ex.PW-19/10, Ex.PW-19/11, and Ex.PW-19/12 respectively. PW-19 has stated that after the discharge of Fakhr-e-Alam from the hospital, he had recorded his statement u/s 161 Cr.P.C and then produced him before the court for recording his statement u/s 164 Cr.P.C vide his application Ex.PW-19/13.

According to PW-19, the statement of the injured/complainant was recorded before the court in which the co-accused facing trial namely Sharif Jan, Ajmal, Razi Muhammad, Sabir Khan and Asghar Khan were charged.

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According to PW-19, he proceeded against the above mentioned accused and visited their respective localities but they had not been found. PW-19 had applied for chemical analysis of the blood stained cottons and garments of the deceased vide his application Ex.PW-19/14. PW-19 had received the FSL report to this effect which is Ex.PZ. PW-19 has also received the PM report of deceased Raj Muhammad. According to PW-19, he had applied for incoming and outgoing data of accused Khalid Khan, Aziz Khan, Fazal Subhan, Arshad and Nasir Khan vide his application Ex.PW-19/15. PW-19 has also applied for issuance of warrants u/s 204 Cr.P.C against the accused Fazal-e-Subhan, Naveed, Sharif Jan, Asghar Khan and Ajmal Khan vide his application Ex.PW-19/16, which were issued accordingly. PW-19 has also applied for issuance of proclamation notices u/s 87 Cr.P.C against accused Fazal Subhan, Naveed, Ajmal Khan, Sharif Jan and Asghar Khan vide his application Ex.PW-19/17, which were issued accordingly. PW-19 has issued the card of arrest of accused Razi Muhammad and Sabir Khan and the same is Ex.PW-19/18. PW-19 has also recorded the statements of the accused under section 161 Cr.P.C. According to PW-19, the pictures of the accused

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namely Arshad, Aziz Khan, Khalid Khan, Hamid were drawn and the same are Ex.PW-19/19 to Ex.PW-19/22. Likewise, the pictures of the motorcar in question were taken on the spot which was having bullet marks and are Ex.PW-19/23 to Ex.PW-19/35. PW-19 had also prepared lists of legal heirs of the deceased and after his transfer from the Police Station, the rest of the proceeding was done by another police official.

It has been admitted by PW-19 in his cross statement that Nawar Khan (PW-14) informed him that the investigation staff should join him in the hospital for helping him in the proceedings of the case. PW-19 has also admitted that Nawar Khan dictated him the murasila which he reduced into writing on his dictation. PW-19 has also admitted that two recovery memos are prepared by him which are Ex.PW-19/1 and Ex.PW-19/D-2 and both the recovery memos are in different handwriting. PW-19 has admitted that recovery memo Ex.PW-19/1 wherein 5 accused are charged, is in his handwriting and the recovery memo Ex.PW-19/D-2 wherein the names of all accused alongwith their parentage is written, is not in his handwriting. PW-19 has further admitted that he did not sent the empties i.e. 94 empties of 7.62 bore, 02 empties of

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9MM and 06 empties of 30 bore to FSL. PW-19 has also stated that he had taken the photographs of the motorcar on the spot and that he has not mentioned this fact in his diary of that day. PW-19 has admitted that he is not in possession of the film of the said photography. PW-19 has further admitted that he does not know the name of the photographer nor has he recorded his statement. PW-19 has admitted that he had not prepared any recovery memo for the possession of the photograph of the vehicle. PW-19 has admitted that the number plate can easily be changed over a motorcar PW-19 has further admitted that deceased Irshad Khan was from the police force and he had remained with him in different stations as his colleague. PW-19 has also admitted that he had come to know that accused facing trial (arrested accused) were arrested by the police of police station Khazana Peshawar in case registered u/s 506 PPC and were detained in the Central Jail Peshawar at 2130 hours and that he inquired that the accused were arrested by the police of police station Khazana on 29.05.2011 and therefrom, they were sent to judicial lockup, central jail Peshawar. PW-19 has admitted that he had not prepared the sketch of the spots shown to him by the PWs regarding

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the presence of the arrested accused in different places on the day of occurrence. PW-19 has also stated that he had recorded the statement of Fazal Hayat and Mohammad Riaz for the first time on 03.06.2011 while for the second time on 05.06.2011. PW-19 has admitted that on 03.06.2011, PW Fazal Hayat and Riaz did not disclose to him presence of the accused Khalid etc in their village as they were in grief. PW-19 has stated that it would be wrong if PW Muhammad Riaz deposes before the court that only one time his statement was recorded by the police. PW-19 has admitted that PW Afsar Khan and Naseeb Jan did not met him during the course of inquiry. PW-19 has admitted that there is a dispute of womenfolk between PW Muhammad Riaz and accused facing trial Khalid. PW-19 has also admitted that he had not picturized the driving seat of the motorcar where complainant Fakhr-e-Alam was shown present. PW-19 has admitted that the police officials are targeted by the outlaws. PW-19 has admitted that he had verified the site plan from PW Fakhr-e-Alam on 04.06.2011 and that the said verification Ex:PW-12/2 does not bear any date beneath the signature of Fakhr-e-Alam. PW-19 has again stated that the site plan was verified from Fakhr-e-Alam on 05.06.2011. PW-

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19 has also admitted that Fakhr-e-Alam was discharged from the hospital on 02.06.2011. PW-19 has admitted that it would be wrong if Fakhr-e-Alam deposes that the site plan was verified from him on 02.06.2011. PW-19 has admitted that he had taken some hints from complainant Fakhr-e-Alam regarding the spot of occurrence in the hospital before the registration of case and after the registration of the case he had visited the spot and prepared the site plan.

After recording and closure of prosecution evidence as discussed above, the statements of the accused facing trial were recorded under section 342 Cr.P.C wherein they once again professed innocence and contended their false implication in the present case. The accused facing trial however, neither wished to be examined on oath nor they opted to produce evidence in disproof/rebuttal of the prosecution evidence.

I have heard arguments from the learned Dy.PP on behalf of the state assisted by learned private counsel, learned defence counsel and have gone through the record on file.

Appearing on behalf of the state and complainant, the learned counsel for the complainant and Dy.PP on behalf of

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the state contended that in the present case, the occurrence has taken place in broad day light and that the eye witnesses including the injured complainant Fakhr-e-Alam were natural witnesses of the occurrence. According to the learned counsel for the complainant, the ocular account furnished by the eye witnesses did not contain serious contradictions or improvement and as such, the ocular evidence being confidence inspiring, could be relied upon. According to the learned counsel for the complainant, their mere relationship with the deceased persons was not criterion to discard their testimony. They further contended that accused were named in the promptly lodged FIR with their roles in the occurrence and that the nature, locations and duration of injuries as narrated by the prosecution witnesses stood confirmed from medical evidence. According to them, the injuries sustained by the deceased and injured person in the occurrence were intended and these were not accidental and were at the vital parts of the bodies of the deceased persons. According to learned counsel for the complainant party, these injuries were sufficient in the ordinary course of nature to cause death of the three persons and being so, the offence committed by the

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accused/persons clearly fell within the 3<sup>rd</sup> limb of section 300 PPC. According to the learned counsel for the complainant and Dy.PP for the state, accused being guilty of committing of three most callous and brutal murders, did not deserve any leniency and there existed no mitigating circumstances for award of lesser punishment to the accused.

Controverting the above arguments of the learned Dy.PP and learned counsel for the complainant, the learned counsel representing the accused persons mainly contended that the present case is that of false involvement of the accused persons and according to them, the arrest of the accused Khalid Khan, Aziz Khan, Hamid Kan and Arshid Khan on 29/5/2011 by the police of police station Khazana Peshawar in case FIR No.478 dated:29/5/2011 as registered under section 506/34 PPC and their production before the Judicial Magistrate on the very fateful day is sufficient to establish that at the relevant time of occurrence, the accused mentioned above were not present on the spot. According to the learned defence counsel, though, the complainant party has tried their level best through crime branch to prove fake their arrest as effected in the above cited case and the said

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case as drama but from the very materials on record, i.e, the enquiry report Ex PW 17/20, nothing has been alleged against the accused facing trial (as nominated in the FIR) or the co-accused Sabir Khan SI and Razi Muhammad (the then SHO of police station Khazana) that after their arrest in case FIR.No.478 dated:29/5/2011, the accused Khalid etc have been allowed by the co-accused Razi Muhammad and Sabir Khan to leave the police station for Nowshera to participate in the instant occurrence, which has taken place in the morning of 30.05.2011.

Keeping in view the above arguments of the learned counsel for the parties, it becomes crystal clear that the present case is of two versions and as onerous duty is cast upon the Court to decide as to which of two versions is correct and plausibly supported by the evidence and circumstances on record and to ascertain the truth or otherwise of the two versions, version found more plausible and nearer to the truth is to be accepted. Moreover, it is also established principle of law that while convicting an accused person under a charge and particularly in a case in which capital punishment is involved, a Court must be fully convinced that the accused facing trial is the only person

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responsible for committing the offence and that there is not even the slightest doubt about his false implication. In the present case, it is to be noted here that the prosecution has founded the guilt of the accused on the following items of evidence.

- A) Ocular account and circumstantial evidence given by complainant Fakhr-e-Alam (PW12), eye witnesses, PW-6 Muhammad Riaz, PW-7 Murad Akram, PW-13 Arshad Hussain.
- B) Medical evidence
- C) Criminal conspiracy between/among two groups of accused.
- D) Motive
- E) Recoveries of blood stained garments, bullet hit car and crime empties etc from the spot.

Having gone through the record of case very carefully, I have absolutely no hesitation in holding that the eye witnesses including the complainant Fakhar-e-Alam (PW-12) are natural witnesses of the occurrence and the PWs Fakhar-e-Alam and Arshad Hussain (PW-13) (who have also sustained injuries in the occurrence) though, related towards the three deceased persons, their testimony cannot be

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discarded on their mere relationship. Though, the ocular account furnished by the complainant and eye witnesses finds support from medical evidence as per the nature, locations and duration of injuries sustained by the deceased persons and the incident in the manner as alleged stands confirmed from the medical evidence on record and the said injuries are confirmed intended fire-arm injuries and not accidental however, such medical evidence, may only be considered a corroborative piece of evidence as medical evidence is meant only for disclosing the cause of death etc and would never indicate the person who has caused the fatal injury to the deceased. In the present case, however in view of enquiry report of PW-17 (which is Ex.PW.17/20) to the effect that at the time of the occurrence, the accused Khalid Khan (ii) Aziz Khan (iii) Hamid Khan and (iv) Arshad Khan were present in the lock up of police station Khazana of District Peshawar on their arrest in case FIR No.478 dated 29/5/2011 prior and after the occurrence, the presence of the accused facing trial on the relevant time of occurrence at the spot of crime cannot be established from the ocular account as furnished by the prosecution.

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In view of the evidence of the prosecution on record, the present case of the prosecution has become a case of two versions and where a case is of two versions, the established principle of law is, that both the versions have to be kept in junxtaposition and one favourable to the defence is to be accepted. By scanning the evidence on record minutely and putting both the versions into junxtaposition, the defence version to the effect that at the relevant time of occurrence, the accused Khalid and three others were present in the lock up of Police Station Khazana Peshawar appgars to be more plausible and supported by documentary and circumstantial evidence.

So far as the motive aspect of the present case is confirmed, though, the motive set up in the FIR (which is previous blood-feud enmity between the parties) has been proved by the prosecution but in the presence of previous enmity between the parties and as motive being a double edged weapon, the possibility of false implication of the accused in the present case may also not be ruled out.

About the plea of the prosecution pertaining to conspiracy between or among the two groups of accused, no tangible proof has been brought on record by the

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prosecution wherefrom pre-concert or common design regarding the occurrence could be suggested between the principal accused Khalid etc and accused Sabir Khan SI and others who have been charged for the conspiracy and abetment for the murder of three persons and injuring complainant Fakhar-e-Alam and PW Arshad Hussain.

With regard to recovery evidence on file, as per record, neither any weapon of crime has been recovered from the direct possession of the accused Khalid etc nor any thing as incriminating material has been recovered on their pointation. So far, as the recovery of blood stained garments etc is concerned, blood stained garments etc could only be proved through serologist report to the effect that whether the same were stained with the same group of human blood as the same were taken out from the deceased's body at the time of autopsy or the blood recovered from the spot where deceased had been injured. Recovery of motorcar having bullet marks, be taken for evidence to the extent that the hole in the motorcar was made by firearm shot, however such evidence was not substantive/real, but circumstantial which could not independently prove identification of the person who had fired at the deceased or at the car. Similarly,

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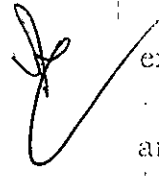
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unless the recovered empties are matched with a weapon of offence recovered from an accused person (where no such weapons stands recovered from any of the accused of the present case), the same recoveries were of no consequence/significance. In the present case, the recovered empties have also not been sent by the IO to the FSL for determining that what number of weapons have been used in the present occurrence, however, from the said recovery of crime empties, the prosecution case stands proved to the extent that more than one accused has participated in the commission of crime.

Pursuant to the above discussion, as the prosecution has been hopelessly failed to connect the accused facing trial with the murder occurrence of three deceased persons and injuring two others as taken place at 7:30 AM of 30/5/2011, so keeping their failure to prove their charge against the accused (1)Khalid Khan (2) Aziz Khan (3) Hamid Khan (4) Arshid Khan (5) Razi Muhammad (6) Sabir Rehman (7) Sharif Jan (8) Ajmal Khan and (9) Asghar Khan beyond the shadow of reasonable doubts, the benefit of doubt is extended to the above named accused and resultantly, they are hereby exonerated of the charges leveled against them in

~~AM/PP~~  
13/6/13





25 JUN 2013

(80)

case FIR No.504 dated:30/5/2011 as registered under section 302/324/427/148/149 PPC at police station Nowshera Cantt. Accused (1) Razi Muhammad (2) Sabir Rehman (3) Sharif Jan (4) Ajmal Khan and (5) Asghar Khan who are on bail, they and their sureties stand relieved from the liabilities of bail bonds while the rest of the accused who are in custody, be released forthwith if they are not required for detention in any other criminal case.

So far as, the case against the absconding co-accused Fazal Subhan son of Alam Khan and Naveed son of Khalid Khan under sections 302/324/427/148/149 PPC PPC is concerned, record shows that the above accused Fazal Subhan and Naveed after their involvement in the present case, have deliberately gone into their willful absconsion for evading their arrest from law enforcement agencies. There being no prospect of their arrest in the near future and in view of prima-facie case against them based on cogent evidence, they are declared as proclaimed offenders in the present case. Necessary perpetual NBW of arrest be issued against them which be sent to SHO of police station Nowshera Cantt for their arrest as early as possible. Their names be also entered in the relevant register of proclaimed

~~13/6/13~~

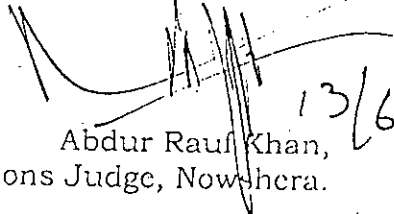
*[Handwritten mark]*

*[Handwritten signature]*  
 Agency

81

offenders. Case property be kept intact till arrest/surrender of the absconding co-accused Fazal Subhan and Naveed and conclusion of regular trial against them. File be consigned to record room after completion.

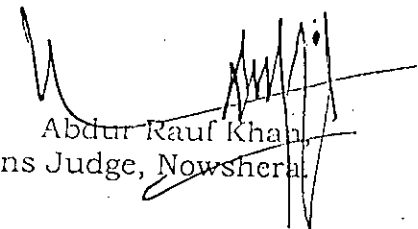
Announced.  
Dated 13.06.2013.

  
Abdur Rauf Khan,  
Sessions Judge, Nowshera. 13/6/013

CERTIFICATE

It is certified that this judgment consists of Sixty one pages. Each page has been read over and signed by me after making necessary corrections with initials.

Dated 13.06.2013.

  
Abdur Rauf Khan,  
Sessions Judge, Nowshera.

13/6/013



  
26 JUN 2013

(82) ANNEX H

**CAPITAL CITY POLICE PESHAWAR**  
( RURAL DIVISION )

SSP OPERATION, PESHAWAR.

FROM

SP RURAL, PESHAWAR.

NO. 3828 PA

DATE: 24/9/2013

SUBJECT:

ENQUIRY AGAINST SUB INSPECTOR RAZI MOHAMMAD  
(EX.SHO KHAZANA) AND SUB INSPECTOR SABIR KHAN  
(EX.ASHO KHAZANA).

Please refer to your office diary No. 5760/PA, dated: 15.07.2013.

It is submitted that SI Razi Khan, Ex. SHO PS Khazana and SI Sabir Khan of PS Khazana were placed under suspension and proceeded against departmentally on the charges of their involvement in criminal case vide FIR No. 504/2011 Under Section 302/324/427/148/149 PPC, P.S Nowshera Kalan.

In this connection, an enquiry was conducted by the then SP Rural and detail findings were sent to your office vide this office memo: No. 4068/PA, dated: 04.04.2012, with the recommendation to keep the proceedings pending till decision of hon'ble Court whether the alleged officials are involved in such activities or otherwise, as they were proceeded departmentally over the charges of criminal conspiracy. Thus, the enquiry was kept pending till the decision of the court.

Subsequently, the case was decided and the Judgment order of the hon'ble Abdur Rauf Khan, Session Judge, Nowshera, dated: 13.06.2013, comprising of 61 pages was received & perused.

In this context, both the alleged officials were re-summoned and their statements were recorded.

S.I Razi Mohammad stated that he was posted as SIIO Police Station Khazana.

On 29.05.2011, Complainant Asghar s/o Amin Jan r/o Shahi Bala charged accused

Khalid, Aziz, Hamid and Arshad Rs/O Dheri Kati Khel, Nowshera in case vide FIR

No. 478/2011 U/S 506/34 PPC, PS Khazana who were arrested in the said case.

Subsequently, it was learnt that case vide FIR No. 504/2011 Under Section

302/324/427/148/149 PPC, Police Station Nowshera Kalan was also registered on the

report of Complainant Fakhar-e-Alam s/o Dilaram resident of Dheri Kati against the

above mentioned accused Khalid, Aziz, Hamid and Arshad Rs/O Dheri Kati Khel,

Nowshera. He manifested his innocence, pleaded not guilty. He further stated that the

hon'ble Court vide his Judgment dated: 13.06.2013 has also manifested his innocence,

thus he prayed for reinstatement in service from the date of suspension (Statement

attached).

AM



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SI Sabir Khan also repeated the above mentioned statement of SI Razi Khan, he also manifested his innocence and pleaded not guilty of the charges leveled against him (Statement attached).

On perusal of the learnt Court's Judgment order of Session Judge Nowshera, and other material on record, it reveals that the alleged Police officials were not directly charged in the above mentioned case but they were subsequently shown involved in the commission of stated offence for making conspiracy along-with the principal accused, by registering a case a day before against them, there at PS Khazana and by showing their arrest in that case, as being SHO and ASHO of the same P.S. However, during the course of trail, the hon'ble Court vide his Judgment dated: 13.06.2013, manifested the innocence of both the delinquent officials and exonerated them of the charges leveled against them as there is nothing left un-probed as well as they have been acquitted by the Court.

Legal opinion of DSP Legal were also obtained who opined that Police Rules 16.3 provides that when a Police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not. Therefore, there is no bar over the disposal of their departmental enquiry or re-instatement in service.

Keeping in view decision of the learnt Court and other material, it is recommended that both the alleged officials may please be reinstated in services from the date of their suspension and <sup>they</sup> may be strictly warned to be careful in future. Submitted please.

SP Rural, Peshawar

DSP Legal

Discuss in light of relevant rules of Law  
Nizam  
11/12/2013

~~Approved & recommended by the Enquiry officer~~

~~[Signature]~~  
24/9/13

[Signature]

SI Razi Muhammad 691/P and SI Sabir Rehman 342/P were charge sheeted vide No. 7/E/PA, dated 15.12.2011 at the receipt of investigation report conducted by Crime Branch CPO Khyber Pakhtunkhwa wherein both the officials were recommended for proper departmental enquiry. SP/Rural was appointed as enquiry officer. On the basis of alleged connivance of the accused officials in case FIR No. 478 dated 29.05.2011 u/s 506/34 PPC PS Khazana and FIR No. 504, dated 30.05.2011 u/s 302/324/427/148/149 PPC PS Nowshera wherein 03 persons were brutally murdered. Both the officials were charged u/s 109 PPC in case FIR No. 504 PS Nowshera, although, due to weak prosecution, both the accused official were acquitted of the charges but for their criminal conspiracy in lodging the concocted case FIR No. 478, dated 29.05.2011 u/s 506/34 PPC PS Khazana, re-investigation of the case was carried out. At the conclusion of re-investigation, criminal conspiracy with solid evidence was established and recommendations were made for replacement of section 506 PPC with section 203 PPC & 3/4 Aerial Firing. Both the officials were again charged u/s 109 PPC for lodging concocted and fabricated case in order to provide the plea of alibi to the nominated accused namely Khalid, Aziz Khan, Iqbal and Rashid in case FIR No. 504 who allegedly killed three persons in the early hours of the next day i.e 30.05.2011 in Nowshera.

Recommendations of the enquiry officer i.e SP Rural in the instant enquiry are solely based on the verdict dated 13.06.2013 by the Session Court, Nowshera whereby all the accused alongwith both the accused official were acquitted. The enquiry officer failed to take into consideration the re-investigation report of Crime Branch, CPO in which both were found guilty of misconduct, which is sufficient to disagree with the recommendations of enquiry officer and satisfy the conditions provided in section 24 A of the General Clauses Act 1897. Both were issued Final Show Cause Notice and were given opportunity of personal hearing on 04.03.2014 but the evidence cited in the re-investigation report made them mum and not a single answer to any question put forward was answered by them. Presence of such black sheep in police force and taking lenient view about them will encourage the misuse of authority & abuse of power in the department. On the basis of irrefutable evidence both the accused were found involved in criminal conspiracy while donning the police uniform which resulted in killing of 03 persons. I being competent authority hereby award SI Razi Muhammad 691/P & SI Sabir Rehman 342/P the major punishment of "Dismissal from Service" under Removal from Service (Special Powers) Ordinance-2000 from the date of suspension. Re-investigation and conclusion of the trial in both the criminal cases restrained the undersigned to reach a fair and impartial conclusion and took more than 03 years to pass the final verdict.

*Najeeb*  
 SR: SUPERINTENDENT OF POLICE,  
 OPERATIONS, PESHAWAR.

O.B.NO. 1544/ dated 8-5-2014.

No. 343-48/PA, dated Peshawar, the 08/05-2014.

Copy for information to:

1. The Capital City Police Officer, Peshawar.
2. The SP/Rural, & SP/1 Qrs.
3. EC-II, CC, Pay Officer & I/C Computer Cell
4. JMC with enquiry file 41, 233
5. Pay Officer with the direction to recover the outstanding amount paid in lieu of monthly salary during the period of suspension.

89  
 APPROVED I

87

E. That where the main allegations against the appellant were the same as mentioned in the criminal case, and the appellant has been acquitted in the criminal case then as per 163 of the Police Rules, the departmental proceedings were incompetent, the same is reproduced.

" (1) If a police officer has been tried and acquitted by a criminal court he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not, unless -

(a) The criminal charge has failed on technical grounds, or

(b) In the opinion of the court or of the Superintendent of Police the prosecution officer has been won over, or

(c) The court has held in its judgment that an offence was actually committed and that suspicion rests upon the police Officer concerned, or

(d) The evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge, or

(e) Additional evidence admissible under rule 16-22 (1) in departmental proceedings is available.

F. That ever since my appointment I have performed my duties with zeal and devotion and there was no complaint whatsoever regarding my performance.

G. That I have a long family dependent upon me since I am jobless due to my illegal removal from service, thus not only me but my whole family is suffering.

H. That I am young, energetic and want of serve for the department albeit the illegal dismissal from service has restrained me from serving.

I. That I have a spotless and long service career, however the same has not been considered while awarding me the penalty.

It is therefore humbly prayed that on acceptance of this Departmental Appeal the dismissal order Dated 8.2.2014 may please be set aside and the appellant may please be reinstated into the service with all back benefits.

Yours Obediently

*[Signature]*

(Sahib Khan Ex-Sub-Inspector)  
Police Line Peshawar.

Date: \_\_\_\_\_

19-2-14

*[Handwritten mark]*

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR.**

**Service Appeal No.1070/2014.**

Mr. Sabir Khan Ex-Sub Inspector, Police Lines, Peshawar.....**Appellant.**

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs:.....**Respondents.**

**Reply on behalf of Respondents 1, 2 and 3.**

**Respectfully Sheweth!**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for non-joinder and mis-joinder of necessary parties.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Honorable Tribunal.
7. That the appellant has got no locus standi.
8. That the appeal is not maintainable in its present form.

**FACTS:-**

- 1- Para No. 1 pertains to record. Hence needs no comments.
- 2- Para No. 2 is for appellant to prove.
- 3- Para No. 3 is correct to the extent that a concocted and fabricated case vide FIR No. 478 dated 29.05.2011 U/S 506/34 PPC was registered by the appellant mala-fidely in order to provide the plea of alibi to the nominated accused persons namely Khalid, Aziz Khan, Hamid and Rashid in case FIR No. 504 U/S 302/324/427/148/149 PPC PS Nowshera Kalan.
- 4- Para No. 4 is correct to the extent that a case vide FIR No. 504, dated 30.05.2011 U/S 302/324/427/148/149 PPC PS Nowshera Kalan was registered wherein three persons were brutally murdered by accused persons namely Khalid, Aziz Khan, Hamid and Rashid. The said accused persons with the conspiracy and collaboration of

appellant charged themselves in a case vide FIR No 478 dated 29.05.2011 U/S 506/34 PPC PS Khazana in order to establish the plea of alibi and to save the accused from their involvement in criminal case vide FIR No 504 dated 30.05.2011 U/S 302/324/427/148/149 PPC PS Nowshera Kalan where in three persons were brutally killed. In this regard a preliminary enquiry was conducted by Addl: IG investigation Peshawar, who held the appellant responsible for gross misconduct, and the appellant was also charged U/S 109 PPC for lodging concocted and fabricated FIR No 478 dated 29.05.2011 U/S 506 PPC PS Khazana.

- 5- Para No. 5 is correct to the extent that proper departmental proceedings were initiated against the delinquent official. Charge sheet and summary of allegations were issued to him for his involvement in criminal conspiracy and was charged U/S 109 PPC, for lodging concocted and fabricated FIR, in order to save the accused from his involvement in case FIR No 504 dated 30.05.2011 U/S 302/324/427/148/149 PPC PS Nowshera. The appellant submitted his reply but his reply was found unsatisfactory and he failed to defend his gross misconduct.
- 6- Para No. 6 pertains to record, hence needs no comments.
- 7- Para No. 7 is correct to the extent that the enquiry officer recommended him for re-instatement with a warning note but the enquiry officer failed to take into consideration the re-investigation report of Crime Branch, CPO in which the appellant was found guilty of misconduct, which is sufficient to disagree with the recommendation of enquiry officer and satisfy the conditions provided in section 24-A of the general clause Act 1897. Hence was awarded major punishment of dismissal from service. As competent authority is not bound to the recommendations of enquiry officer. (Investigation report of Crime Branch CPO is annexed as "A")
- 8- Para No. 8 is totally incorrect and is based on surmise and conjecture. In fact the competent authority passed the punishment order after collecting solid material which reveals that the appellant misused his authority and was found guilty of gross misconduct. Furthermore, the appellant was given full opportunity of personal hearing on 04.03.2014 and final show cause notice was issued. But he failed to defend himself for his misconduct. (Show case notice is annexed as "B").
- 9- Para No. 9 pertains to record, hence needs no comments.



- 10- Para is incorrect. The punishment orders are legal, and liable to be up-held.

**GROUND:-**

- A- Incorrect. The appellant was treated in accordance with law and rules.
- B- Incorrect. Proper procedure was adopted for awarding major punishment of dismissal from service. The enquiry officer failed to take into consideration the re-investigation report of Crime Branch, CPO in which the appellant was found guilty of misconduct, which is sufficient to disagree with the recommendation of enquiry officer. (Re-investigation report is already annexed as "A").
- C- Incorrect. The appellant was called and heard in person on 04.03.2014. But he failed to answer any question put forward before him, regarding his misconduct.
- D- Incorrect. As per Para's mentioned above. However the appellant proud guilty.
- E- Incorrect. The appellant was issued a show cause notice. (Copy of show cause notice is annexed as "B").
- F- Incorrect. The punishment order was passed by the competent authority after fulfilling all codal formalities. The punishment order is legal.
- G- Incorrect. The court proceedings and departmental proceedings are quite different things and can run side by side. Presence of such black sheep in police force and any kind of leniency will encourage the misuse of authority.
- H- Para is for the appellant to prove.
- I- Incorrect. The appellant being a member of a disciplined force was proceeded departmentally and in accordance with law/rules.
- J- Incorrect. The charges leveled against appellant were stand proved. The punishment order was passed after fulfilling all codal formalities.
- K- Incorrect. The appellant was found guilty of misconduct, hence the punishment order.
- L- Incorrect. The appellant does not deserve any leniency because any laxity will encourage misuse of authority.
- M- Para not related, hence needs no comments.
- N- No comments.

O- That respondents also seeks permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

**PRAYER:-**

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant may be dismissed.



**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**



**Capital City Police Officer,  
Peshawar.**



**Superintendent of Police  
HQs., Peshawar.**



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR.**

**Service Appeal No.1070/2014.**

Mr. Sabir Khan Ex-Sub Inspector, Police Lines, Peshawar.....**Appellant.**

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs:.....**Respondents.**

**AFFIDAVIT.**

We respondents 1 to 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police  
HQrs:, Peshawar.**

Annexure A

# رپورٹ ضمنی

پولیس فارم ۲۵-۵۴ (۱) پانچ (۱) تاریخ ۱۰/۰۵/۲۰۱۱  
حصہ اول (بیرونی)

تھانہ خزانہ

ضلع پشاور

ابتدائی اطلاعی رپورٹ نمبر 478

ضمنی نمبر 25

تاریخ و مقام وقوع 29.05.2011

تھانہ میں موصول ہونے کا وقت و تاریخ

جرم PPC 506/34 ت پ

تھانہ سے روانگی کا وقت و تاریخ

۱۰/۰۵/۲۰۱۱ ۳-۶ ص ۱۰/۰۵/۲۰۱۱

تاریخ بمعرفت جس پر کارروائی کی گئی	رپورٹ کا نمبر شمار از دفتر انسٹی گیشن سلسلہ وار	حالات تفتیش	پیش کردہ افسر خان انسپکٹر کرائم پشاور
01.8.2011		بذریعہ: یتام: ۱) خالد خان ولد عالم خان سکند ڈھیری کٹی خیل نوشہرہ۔ ۲) عزیز خان ولد عالم خان سکند ڈھیری کٹی خیل نوشہرہ۔ ۳) حامد خان ولد خالد خان سکند ڈھیری کٹی خیل نوشہرہ۔ ۴) ارشد خان ولد خالد خان سکند ڈھیری کٹی خیل نوشہرہ۔	پیش کردہ افسر خان انسپکٹر کرائم پشاور
08:15 بجے			
14:00 بجے			
		وقت وقوع: 19:00 بجے وقت رپورٹ: 19:30 بجے چاکیڈگی پرچہ: 20:10 بجے	
		جناب عالی!	
		ضابر خان SI معہ کنسٹیبلان قدوس نمبر 228، جمروڈ نمبر 936، حمید نمبر 227 بسلسلہ گشت علاقہ میں موجود تھا۔ فائرنگ کی آوازیں سن کر فوراً جائے وقوعہ قبرستان لڑمہ پہنچ کر وہاں پر آصفہ مدعی مقدمہ موجود پایا کہ آصفہ نے رپورٹ کی کہ میں نے گل ٹاؤن میں 10 1/2 مرلہ پلاٹ اجمل خان ولد رضا خان سکند محلقہ قاسم خیل ترنگڑی حال خزانہ پایان پشاور سے خرید کر عبید اللہ پر فروخت کیا عبید اللہ نے مجھے کہا کہ اس پلاٹ پر چند کسان رقم کی دعوی داری کرتا ہے۔ یہ پلاٹ میں واپس کرتا ہوں۔ آج میں پلاٹ کیساتھ موجود تھا کہ اس دوران بالا ملزمان مسلح آئے اور میرے ساتھ پلاٹ پر باتوں باتوں میں گرم ہو کر ہر چار کسان نے اسلحہ آتشین سے مجھ پر ڈرانے دھمکانے کی خاطر ہوائی فائرنگ کی وجہ عداوت پلاٹ کا تنازعہ ہے۔ وقوعہ ہذا وہاں پر موجود کسان سید علی ولد محمد حیات سکند نیامی اور دیگر کسان کا چشم دید ہے۔ میں اپنے اوپر ڈرانے دھمکانے کی خاطر ہوائی فائرنگ کرنے کا برخلاف ملزمان بالا دعوی دار ہوں۔	

forwarded  
M.Am  
DSBini

Annex A

# رپورٹ ضمنی

پولیس فارم ۲۵-۵۳ (۱) فارم نمبر  
حصہ اول (بیرونی)

ضلع پشاور

تھانہ خزانہ

ضمنی نمبر ۲۵

ابتدائی اطلاعی رپورٹ نمبر 478

تھانہ میں موصول ہونے کا وقت و تاریخ

تاریخ و مقام وقوعہ 29.05.2011

تھانہ سے روانگی کا وقت و تاریخ

جرم PPC 506/34 ت پ

۱۵۹۳ - ۲۵۳ - ۳۰۶ - ۳۰۶ - ۳۰۶

پیش کردہ افسر خان اسپیکر کرائم پشاور

حالات تفتیش

رپورٹ کا نمبر شمار از دفتر انوشی گیشن  
سلسلہ وار

تاریخ بمعہ وقت جس  
پر کارروائی کی گئی

- بذریعہ:  
نام:  
۱) خالد خان ولد عالم خان سکند ڈھیری کٹی خیل نوشہرہ۔  
۲) عزیز خان ولد عالم خان سکند ڈھیری کٹی خیل نوشہرہ۔  
۳) حامد خان ولد خالد خان سکند ڈھیری کٹی خیل نوشہرہ۔  
۴) ارشد خان ولد خالد خان سکند ڈھیری کٹی خیل نوشہرہ۔

01.8.2011

08:15 بجے

ت

14:00 بجے

وقت وقوعہ: 19:00 بجے

وقت رپورٹ: 19:30 بجے

چاکیڈی پرچہ: 20:10 بجے

جناب عالی!

ضابطہ خان SI معہ کنسٹیبلان قدوس نمبر 228، جمروڈ نمبر 936، حمید نمبر 227 بسلسلہ گشت علاقہ میں موجود تھا۔ فائرنگ کی آواز سن کر فوراً جائے وقوعہ قبرستان لڑمہ پہنچ کر وہاں پر آصف مدعی مقدمہ موجود پا کر اصرار سے رپورٹ کی کہ میں نے گل ٹاؤن میں 10 1/2 مرلہ پلاٹ اجمل خان ولد رضا خان سکند مغلہ قاسم خیل ترنگڑ کی حالت خزانہ پایان پشاور سے خرید کر عبید اللہ پر فروخت کیا عبید اللہ نے مجھے کہا کہ اس پلاٹ پر چند کسان رقم کی دعویداری کرتا ہے۔ یہ پلاٹ میں واپس کرتا ہوں۔ آج میں پلاٹ کیساتھ موجود تھا کہ اس دوران بالا ملزمان مسلح آئے اور میرے ساتھ پلاٹ پر باتوں باتوں میں گرم ہو کر ہر چار کسان نے اسلحہ آتشیں سے مجھ پر ڈرانے دھمکانے کی خاطر ہوائی فائرنگ کی وجہ عداوت پلاٹ کا تنازعہ ہے۔ وقوعہ ہذا وہاں پر موجود کسان سید علی ولد محمد حیات سکند نیامی اور دیگر کسان کا چشم دید ہے۔ میں اپنے اوپر ڈرانے دھمکانے کی خاطر ہوائی فائرنگ کرنے کا برخلاف ملزمان بالا دعویدار ہوں۔

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صابر خان SI نے مراسلہ بدست کنسٹیبل قدوس نمبر 228 ارسال تھانہ کر کے جس پر مقدمہ درج رجسٹر کیا گیا۔  
 CIO ناصر خان SI تھانہ خزانہ کو مامور تفتیش کیا۔

صابر خان SI کے مطابق بوقت 21:50 بجے اُسے مخبر نے اطلاع دی کہ ملزمان مقدمہ ہڈا لڑمہ قبرستان کے راستہ سے آرہے ہیں۔ صابر خان SI نے لڑمہ قبرستان میں ناکہ بندی کر کے سفیدالٹوموٹر کار نمبر LPT1978 کو روکا کر ملزمان خالد، عزیز، حامد، ارشد کو گرفتار کر کے خالد کے قبضہ سے 9MM پستول نمبر 000513 معہ 22 عدد کارتوس، دو سپر چارجز عزیز کے قبضہ سے پستول 30 بور نمبر کٹ شدہ معہ 3 عدد کارتوس برآمد کر کے ہزدو کے خلاف علیحدہ مراسلہ مجرم AO-13 تھانہ ارسال کر کے جس پر مقدمہ علت نمبر 482 مورخہ 29.05.2011 درج رجسٹر کیا گیا۔

2- ناصر خان SI/CIO تھانہ خزانہ نے بوقت 20:25 تا 23:40 29.05.2011 موقع کا معائنہ کیا تاہم اس نے تحریر کیا کہ رات کا وقت ہے۔ مدعی اور گواہان موجود نہیں ہیں۔ لہذا اگلے روز یعنی 30.05.2011 کو نقشہ موقع مرتب کر کے خول کارتوس کی تلاش ہوگی۔

3- مورخہ 30.05.2011 بوقت 08:20 تا 14:30 ناصر خان SI/CIO تھانہ خزانہ نے موقع کا معائنہ کیا۔ مدعی اصغر اور گواہ چشم دید کے بیانات زیر دفعہ 161 ض ف قلمبند کئے نقشہ موقع مرتب کیا۔ موقع سے 8 عدد خول 9MM پستول برآمد کر کے بروئے فرد قبضہ کئے۔ موقع سے واپس تھانہ پہنچ کر ملزمان جو بندہ جوالات تھے کو زیر حراست لیکر عدالت علاقہ مجسٹریٹ میں ریمانڈ جوڈیشل پر پیش کئے جہاں سے جوالات جوڈیشل بھجوائے گئے۔ مقدمہ ہڈا لڑمہ پستول 9MM، پستول 30 بور بروئے فرد قبضہ پولیس کیا پستول 9MM کو خول برآمد شدہ کیساتھ FSL ارسال کئے جو رائے موصول ہو کر FSL نے رپورٹ دی ہے کہ خول اسی پستول سے چلیدہ ہیں۔

راضی محمد خان SHO نے مورخہ 31.05.2011 کو 08:15 تا 09:30 بجے مقدمہ ہڈا لڑمہ پستول مکمل دیکر بغرض put in Court کرنے افسران بالا کو ارسال کیا۔

4- ملزمان مقدمہ ہڈا کے خلاف مورخہ 30.05.2011 بوقت 07:30 بجے جوالات مقدمہ علت نمبر 504 مجرم PPC 302/324/427/148/149 تھانہ نوشہرہ کینٹ دعویٰ داری ہو کر مدعی فخر عالم ولد دارم سکند ڈھیری کٹی نے نواز خان SI کچولٹی DHQ ہسپتال نوشہرہ کو مضمون ذیل رپورٹ کی ہے۔

"آج میں معہ ارشاد ولد میر محمد، برادر ام راشد خان، ارشد ولد جناب گل رشتہ دارم اور راج محمد ولد ارشاد ساکنان ڈھیری کٹی خیل نوشہرہ موٹر کار نمبر LX2011 میں بسلسلہ تاریخ پیشی کچھری نوشہرہ جارہے

تھے۔ موٹر کار کی ڈرائیونگ میں خود کو مارا تھا۔ فرنیٹ سمیت پر ارشاد خان جھکے پھلے سمیت پر ارشاد خان، ارشد بیٹھے ہوئے تھے جب زونہتہ سرک ڈھیری کی ٹیکسلی قریب منگل ہوئی پینچے تو اس دوران سمسیان خالد، فضل سبحان، عزیز خان پسران عالم خان، ارشد، حامد، نوید پسران خالد ساکنان دیہہ اسلام سنگھ آباد آتھیں اپنا کچا نمودار ہو کر جنہوں نے ہمیں دیکھتے ہی ہم پر بارادہ قتل فائرنگ شروع کی جس کے فائدوں سے میں مصدقہ میرا پان ارشاد خان، ارشد، ارشد اور راج محلگ کرشمہ زید زخمی ہوئے۔ مجرحین میں سے ارشاد خان نے گچھوٹی میں زخموں کی تاب نہ لا کر جان بحق ہوا۔ ملزمان بعد قود قودہ موقع سے فرار ہوئے۔ پولیس نے موقع سے 100 عدد زخول مختلف پور قبضہ کئے ہیں۔ واضح رہے کہ بعدہ مجرحین راغما اور راج محلگی خالق حقیقی سے جاملے۔

سورخہ 06.06.2011 کو کسی دلار خان ولد دل محل کھنڈہ ڈھیری کی ٹیکسلی فوشہرہ نے جناب PPO

صاحب خیر پختونخواہ کو یہ مضمون ذیل انصاف کی استدعا کی۔

درخواست برادر انصاف

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گلازاش کی جاتی ہے کہ سورخہ 30.05.2011 میرے چچا زاد کسی ارشاد خان، بیازندہ اسپر پولیس میرے بیٹے کسی راشد خان کو نہایت بے دردی سے قتل کیا گیا اور سمسیان خیر عالم، راج محلگ، ارشد حسین شندید زخمی ہوئے۔ ملزمان سمسیان خالد خان، فضل سبحان، عزیز خان پسران عالم خان، حامد، نوید، ارشد پسران خالد خان نے تقریباً 200 تانے کئے ہیں۔ جس سے پورا نوشتہ ہلڑا اٹھا۔ پولیس مصدقہ DSP صاحب فوری موقع پر پینچے اور جائے قودہ سے 100 کے قریب زخول قبضہ پولیس میں کر کے ملزمان کے گھڑ پر چھاپ زخمی کر کے ان کے لواحقین کے قبضہ سے دو عدد کاؤنگونف، دو عدد کاؤنگونف اور ایک عدد M-16 رائفل اور ہزاروں کا توڑس قبضہ پولیس میں کئے ہیں۔

ملزمان جو کہ بہت اثر رسوخ والے مالدار لوگ ہیں۔ ملی بھگت کے تحت مضموبہ بندی کر کے ایک دن پہلے یعنی 29.05.2011 کو نامہ روز ملزمان میں سے کسی عزیز خان، خالد خان پسران عالم خان، حامد، ارشد پسران خالد خان کو بسلسلہ مقدمہ عدلت نمبر 478 مورخہ 29.05.2011-3-AO-PPC506/34/13 تھا۔ خزانہ پشاور میں گرفتار دکھائے گئے ہیں۔ حالانکہ روز قودہ سپر لوگ موقع پر موجود تھے چاہیے تو یہ کہ جس وقت ملزمان گرفتار ہوئے اسی وقت تھا۔ خزانہ مقامی پولیس کو بذریعہ وارنٹس یا فون 29.05.2011 کا اطلاع دینی چاہیے تھی کہ ملزمان بالآخر گرفتار ہیں کہ یہ کسی مقدمہ میں مطلوب ہیں کہ نہیں؟

خزانہ پولیس کیساتھ ملی بھگت کر کے سیاسی اثر رسوخ پر مقدمہ کو بگاڑ دینے کی کوشش کی گئی ہے جن افسران نے ملی بھگت کی ہے ان اہلکاران کے خلاف حکمانہ کارروائی اور مقدمہ ہذا کی تفتیش بذریعہ کرائسٹ براؤننگ کسی ذمہ دار اور ایماندار پولیس افسر کے ذریعے کرائی جائے۔ تاکہ مقدمہ علت نمبر 478 مورخہ 29.05.2011 کو خارج کر کے اسی مقدمہ کی تھانہ کینٹ میں صحیح تفتیش کرایا جاسکے تاکہ نامزد ملزمان کیفر کردار تک پہنچ جائے۔

یہ کہ سائل کیساتھ کافی شہادت موجود ہے کہ وقوعہ کے روز اور وقوعہ سے ایک دن پہلے شام کے وقت یہ ملزمان گاڈاں میں موجود تھے اور اگر ملزمان کو 29.05.2011 پر گرفتار کیا گیا ہو تو 30.05.2011 کو صبح جوڈیشل مجسٹریٹ کے سامنے کیوں پیش نہیں کئے گئے یہ ایک قانونی ضرورت ہے۔ اس سے پہلے ملزمان نے 01.03.2011 کو پیشی کے دن جعلی FIR کرائی تھی۔ جسکی فوٹوکاپی درخواست کے ہمراہ لف ہے۔

6- سمسی دلارم خان کی اس استدعا پر جناب PPO صاحب، ایڈیشنل IIG انوشی گیشن کو مارک کر کے جو جناب سمسی تفتیش کی ٹرانسفر کیلئے باقاعدہ بورڈ کو مارک کیا جو بورڈ نے منظوری دیکر جناب SSP صاحب انوشی گیشن کی نگرانی میں سمسی DSP، افسرخان انسپکٹر، آریاز خان SI کو بطور ٹیم مقرر کر کے نہایت باریک بینی کیساتھ تفتیش شروع کی۔ 27/6

7- مقدمہ ہذا کی باقاعدہ دور بارہ تفتیش کے سلسلے میں معہ ٹیم تھانہ خزانہ پہنچ کر موقع کا معائنہ کیا۔ گواہان متعلقہ کی بیانات قلمبند کئے۔

8- روز نامچہ کو طلب کر کے معائنہ پر معلوم ہوا کہ ناصر SI/CIO کی موقع پر تفتیش جانے کیلئے روز نامچہ میں کوئی ردا گئی واپسی نہیں ہے حالانکہ CIO نے اسی روز معائنہ موقع کی ضمنی میں رات 20:25 بجے تا 23:40 بجے کا ذکر کیا ہے۔

9- اسی روز کے FIRs چیک کر کے معلوم ہوا کہ ملزمان مقدمہ ہذا کے علاوہ دیگر ملزمان جان محمد سکند نار ان سنگی مقدمہ علت نمبر 479 جرم 9-A CNSA، اسد اللہ سکند ہریانہ بالا مقدمہ علت نمبر 480 جرم 9-A CNSA، سلمان سکند گڑھی شاہ محمد مقدمہ علت نمبر 4481 جرم 9 CNSA، عصمت اللہ سکند باچہ گڑھی مقدمہ علت نمبر 474 جرم 13-AO، منزل سکند ہریانہ بالا (بغیر FIR کے حوالات میں بند تھا)، ظہور سکند شاہ محمد گڑھی مقدمہ علت نمبر 477 جرم 13-AO، مقدمات درج رجسٹر کر کے ملزمان FIRs میں گرفتار ظاہر کئے گئے ہیں۔ مگر نہ روز نامچہ میں انکے گرفتاری شو کی گئی ہے اور نہ ہی ان ملزمان کے متعلق روز نامچہ میں ضمانت پر چھوڑنے کا ذکر ہے۔

مسکی منزل شاہ، ملزمان سلیمان، سعد اللہ کو طلب کر کے ان سے تفصیلی پوچھ گچھ کی گئی جنہوں نے یہی بتلایا کہ انکو مختلف اوقات میں (رات 12 بجے) سے پہلے پہلے SHO نے حوالات تھانہ سے نکال کر چھوڑے تھے اگلے دن صبح آکر انکو چالان عدالت کئے گئے۔ بہر حال اس بات کی تصدیق کرتے ہیں کہ انکی موجودگی میں پولیس نے 4 سفید پوش ملزمان کو حوالات میں بند کئے تھے۔ اور انہوں نے ہمیں بتلایا تھا کہ پولیس والوں نے انہیں پستولوں کیساتھ پکڑے ہیں۔ مذکورہ کسان کافی پریشان تھے خاموش بیٹھے تھے باتیں نہیں کرتے تھے۔ ایسے حالات میں جس کا اوپر ذکر کیا گیا کہ مختلف جرائم میں ملزمان کے خلاف FIRs چاک کر کے نہ ملزمان کی ضمنی میں رہائی کا ذکر ہے نہ FIR میں ذکر ہے کہ بر ضمانت چھوڑے گئے نہ ہی روزنامچہ میں انکی گرفتاری اور ضمانت پر چھوڑنے کا ذکر ہے۔ ملزمان حوالات آکر اسی طرح وقتاً فوقتاً بغیر لکھ پڑھ کے رہا کئے جائیں تو تفتیشی ٹیم کیلئے بھی یہ اندازہ لگانا مشکل ہے کہ ملزمان خالد وغیرہ رات 12:00 بجے کے بعد حوالات میں موجود تھے۔ اس لیے بھی کہ نوشہرہ کینٹ 302 QDO کیس میں بیان نزع کے علاوہ گواہان چشم دید میر اعظم خان ولد سید خان، فضل حیات ولد شہزاد گل، محمد ریاض ولد مومن، مراد اکرم ولد عصمت اللہ ساکنان ڈھیری کئی خیل نوشہرہ نے مورخہ 30.05.2011 کو بوقت 06:45 بجے تا 07:20 بجے ان ملزمان کی موجودگی انکے CNG پمپ نوشہرہ میں بیان کی ہے۔

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تھانہ خزانہ کے روزنامچہ کا ملاحظہ ہو کر بحوالہ مد نمبر 36 ملزمان خالد وغیرہ کو بوقت 09:45 مورخہ

30.05.2011 ناصر خان SI/CIO نے عدالت علاقہ مجسٹریٹ میں پیش کر کے حوالات جوڈیشل داخل کئے گئے۔

مدعی اصغر خان سے پلاٹ ملکیت کے بارے میں کاغذات پیش کرنے کی ہدایت ہوئی تھی جو بار بار

اطلاعیاتی اور نوٹس زیر دفعہ 160/94 ض ف کے بعد اس نے ایک عدد اسٹامپ نمبر 1550 مورخہ 16.2.2010 جسمیں اجمل خان ولد رضا خان سکنہ ترنگزئی نے تحریر کیا ہے کہ اس نے 10 1/2 مرلہ پلاٹ واقع گل ٹاؤن مبلغ

11,50,000/- روپے پر اصغر خان پر فروخت کیا ہے۔ جملہ رقم نقد وصول کی ہے۔ اسٹامپ پر اجمل خان اور اصغر خان

کے دستخط موجود ہیں۔ اور ایک گواہ سیاب گل ولد فضل رحیم سکنہ بیلہ برآمد خیل کا دستخط بھی ہے۔ اس اسٹامپ پیپر کو مشکوک

جان کر اسٹامپ نوٹس شفاعت اللہ موبائل نمبر 0333-858554 ظہیر پلازہ رنگ روڈ سے معلومات کی گئی۔ جس نے

حقیقت سے پردہ اٹھا کر کہا۔ کہ اس کے پاس صرف اجمل خان آیا تھا اس نے کہا تھا کہ ایک اسٹامپ تحریر کرو۔ اس دوران

اصغر نے موبائل پر مجھے فون کر کے کہا کہ میں بیمار ہوں نہیں آسکتا ہوں میں نے اجمل کو جملہ رقم حوالہ کی ہے لہذا اپ اسٹامپ

تحریر کریں اجمل کو دیدیں میں گھر میں دستخط کرونگا۔ لہذا میں نے اسی طرح کیا۔

جب تفتیشی ٹیم نے سوال کیا کہ اسٹامپ تو تب قانونی تصور کیا جاتا ہے کہ جب دونوں فریقین موجود ہوں۔ تو اس نے کہا کہ یہ اس سے غلطی ہوئی ہے۔ جب اُسے یہ بھی بتایا گیا کہ اسٹامپ پر کم از کم دو گواہان ضروری ہوتے ہیں۔ جو اس اسٹامپ پر صرف ایک گواہ کا نام درج ہے۔ اور گواہ کی گواہی کا مقصد یہ ہوتا ہے کہ فریقین کا معاہدہ اسکے سامنے ہوا۔ اس کے سامنے رقم حوالہ ہوئی ہے۔ اسٹامپ نوٹس مذکورہ نے کہا کہ اس سے یہ بھی غلطی ہوئی ہے۔ علاوہ ازیں اسٹامپ نوٹس شفاعت اللہ کو تفتیشی ٹیم نے بتلایا کہ قانون یہ ہے کہ جو شخص جائیداد فروخت کرتا ہے اسٹامپ نوٹس اس سے ملکیت کے متعلق کاغذات طلب کر کے بعد تسلی اسٹامپ تحریر کرینگے کہ آیا یہ جائیداد اس کا ہے بھی یا نہ۔ اس نے یہ بھی کہا کہ اجمل خان کیساتھ اس وقت بطور ثبوت کوئی انتقال کا پی یا فرڈ نہیں تھا۔ نہ ہی اس نے اس سے مطالبہ کیا ہے۔ اسٹامپ نوٹس نے کہا کہ یہ بھی اس سے سنگین غلطی ہوئی ہے۔

اندازہ لگایا جاسکتا ہے کہ اس اسٹامپ کی قانونی حیثیت کیا ہے۔ تفتیشی ٹیم کا خیال ہے کہ جب سے ہم نے اصغر سے پلاٹ کی ملکیت کا مطالبہ کیا ہے تو اس نے اجمل کی ایما پر اسٹامپ نوٹس شفاعت اللہ کے ساتھ ملکر جامل ہی میں یہ اسٹامپ تحریر کروایا ہے اور اس پر تاریخ 16.02.2010 تحریر کیا ہے اس کی ویریفیکیشن جاری ہے۔ تاہم قانونی طور پر یہ جعلی ثابت ہوتا ہے اسکی کوئی قانونی حیثیت نہیں ہے۔

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مدعی اصغر سے سوال کیا گیا کہ آپ متھرا شاہی پایان کے ہیں جو جائے وقوعہ سے کئی میل دور ہے رات 19:00 بجے اس پلاٹ میں آپ کیا کر رہے تھے۔ اس نے کہا کہ میں ہر وقت پھر تارہتا ہوں۔ مجھے نہیں معلوم کہ ملزمان کی میری پلاٹ میں موجودگی کا کیسے علم ہوا۔ جب اس سے سوال کیا گیا کہ آپ کو تمام ملزمان کے نام ولدیت کس طرح معلوم ہوئی۔ بتلایا کہ ملزمان پہلے ایک دفعہ اجمل خان کے پاس آئے تھے۔ ملزم خالد کے پسران حامد، راشد کو پہلے نام سے نہیں جانتے تھے مورخہ 29.05.2011 کو وقت وقوعہ میں نے اجمل خان اور شریف جان کو فون کیا جو وہ دونوں موقع پہنچ گئے۔ انہوں نے ان ملزمان کے نام بتلائے جو اصغر نے صابر SI کو بتلائے جو مر اسلے میں درج کئے گئے اسکے مطابق اسٹامپ اور شریف جان تقریباً ادھ گھنٹہ میں موقع پر پہنچے تھے۔ جبکہ صابر SI کا کہنا ہے کہ تمام نام اصغر کو پہلے سے یاد تھے نہ اصغر نے کسی کو فون کیا ہے اور ہی پولیس نے کسی کے آنے کی انتظار کی ہے۔ تفتیشی ٹیم نے گواہ سید علی ولد محمد حیات سکند نیامی کو پیش کرنے کی ہدایت کی۔ ناصر خان SI/CIO نے رپورٹ دی کہ وہ 40 دن کیلئے راؤنڈ تبلیغ کیلئے چلا گیا ہے۔ تاہم تفتیشی ٹیم نے اندازہ ہے کہ اس گواہ کو پتہ چل گیا ہے کہ تفتیشی ٹیم اس ڈرامہ سے باخبر ہے اس لئے وہ سامنے نہیں آتا۔

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مدعی اصغر نے تفتیشی ٹیم کو بتلایا تھا کہ اس نے اس پلاٹ کو نیواقراء پر اپرٹی کی پیڈ پرا اجمل خان سے خریدا ہے۔ جبکہ 4/5 دن بعد اس نے تفتیشی ٹیم کی پرزور مطالبہ پر ایک اسٹامپ پیش کی جس کا ذکر پہلے ہو چکا ہے۔ جس کی کوئی



قانونی حیثیت نہیں ہے۔ نیواقراء پراپرٹی کی پیڈ پراجیکٹس نے اس پلاٹ کو مورخہ 12.01.2010 کو ملزم مقدمہ میں خالد خان پر مبلغ 9 لاکھ 45 ہزار روپے پر فروخت کیا ہے۔ نیواقراء پراپرٹی کی رسید بک کو پیش کرنے کیلئے کہا گیا تا کہ رسید کی اصلی اور جعلی ہونے کا پتہ چل سکے تو اجمل خان بتلایا کہ نیواقراء پراپرٹی شریف جان کی ملکیت تھی۔ جواب پراپرٹی کا کاروبار ختم کر کے سابقہ ریکارڈ کو ضائع کیا گیا ہے نیواقراء پراپرٹی کی ایک اور ممبر فضل غنی ولد مولا جان سکندھ حال شاہ عالم پبل چار سڈ روڈ کا بھی یہی بیان ہے۔

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تنازعہ پلاٹ 10 1/2 مرلہ کی حقیقت جاننے کیلئے پٹواری حلقہ سے استدعا ہوئی مگر اس نے تحریری طور پر بتلایا کہ اس حلقہ کے تمام رجسٹرات، چادرو غیرہ نیب کے قبضہ میں ہیں۔ اور وہ اس قابل نہیں کہ یہ معلوم کر سکے کہ یہ پلاٹ کس کے نام پر ہے۔

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بہ امر مجبوری چار سڈ روڈ لنڈے سڑک تمام پراپرٹی ڈیلرز کیساتھ گفت و شنید ہو کر آخر میں میاں رشید گل پراپرٹی کے مالک میاں رشید گل نے بتلایا کہ اس نے گل ٹاؤن کے 450 مرلہ زمین ملک جہانزیب سے خریدا تھا۔ اور یہ پلاٹ متذکرہ اس نے جنت گل ولد حاجی خان محمد سکندھ لنڈے سڑک پر فروخت کیا تھا۔ جنت گل مذکورہ کو ٹریس کر کے اس نے بتلایا کہ اس نے یہ پلاٹ مورخہ 22.11.2009 کو سپیوگمی پراپرٹی ڈیلر کی پیڈ پراجیکٹس احمد خان ولد حکمت خان سکندھ جنتی بازار علاقہ تھانہ داؤد زئی پر فروخت کیا تھا۔ نگار خان کو ٹریس کر کے جس نے بتلایا کہ اس نے اس پلاٹ کو شریف جان کے کہنے پر اجمل خان ولد رضا خان سکندھ ترنگزئی پر مورخہ 27.12.2009 کو فروخت کیا تھا۔ تاہم اجمل خان کے کہنے پر صوابی کے رہنے والے ایک قاری جس کا نام اب مجھے نہیں آتا ملک جہانزیب سے ڈائریکٹ انتقال کیا ہے۔

سوچنے کی بات ہے کہ اجمل خان ولد رضا خان کے کہنے پر صوابی کے رہنے والے قاری کے نام اس پلاٹ کا انتقال ہوا۔ اس کے بعد اسی پلاٹ کو اجمل خان بحوالہ رسید نمبر A98 مبلغ -/945000 روپے کے عوض مورخہ 12.01.2010 ملزم مقدمہ ہذا خالد ولد عالم خان پر فروخت کرتا ہے 4 لاکھ نقد وصول کرتا ہے اور -/445000 روپے 25.01.2010 تک قرض چھوڑتا ہے۔ اس کے بعد اس پلاٹ کے انتقال نہ کرنے پر ملزم خالد کیساتھ اجمل کا تنازعہ اٹھتا ہے ملزم خالد اس پر راضی ہوتا ہے کہ اسے رقم واپس کرے پلاٹ کا مطالبہ وہ نہیں کریگا۔ اجمل خان اُسٹ 245000 واپس کرتا ہے جبکہ 2 لاکھ بقایا رہ جاتا ہے۔ واضح رہے کہ ملزمان خالد، عزیز، حامد ارشد نے CIO نوشہرہ کینٹ کو بیانات دیتے ہوئے ذکر کیا ہے۔ کہ یہی پلاٹ انہوں نے اجمل خان سے مبلغ 20 لاکھ روپے کے عوض خریدا ہے۔ بعدہ اجمل خان ایک اور کھیل کھیلتا ہے مورخہ 16.02.2010 کو اس پلاٹ کو بحوالہ اسٹامپ نمبر 1550 مدعی مقدمہ ہذا اصغر پر -/1150000 روپے یکمشت فروخت کرنا ظاہر کرتا ہے۔ اسٹامپ میں فی مرلہ حساب کا ذکر بھی نہیں کرتا۔ جبکہ اصغر کہتا

ہے کہ اس پلاٹ کو اس نے عبید نامی شخص پر فروخت کیا۔ عبید باجوڑ کا ہے اور کابل میں ڈاکٹری کورس کرتا ہے۔ دوران تفتیش معلوم ہوا کہ مذکورہ پلاٹ کا انتقال نمبر 10229 ہے۔ ملک جہانزیب نے اجمل، اصغر اور شریف جان کے کہنے پر عبید الرحمان ولد عبید اللہ کے نام کیا ہے۔ چونکہ ریکارڈ نیب میں ہے لہذا اکبر خان SHO نیب کے ذریعے عبید الرحمان کے متعلق ریکارڈ سے پتہ لگایا۔ عبید الرحمان کا پتہ پوہان کالونی مقام منڈی علاقہ تھانہ شی مردان درج ہے۔ لہذا ASI عرفان تھانہ شی مردان کے ذریعے معلومات ہو کر ASI نے بتلایا کہ مذکورہ شخص اس محلہ میں نہیں ہے۔ نہ ہی اس کے متعلق کوئی شواہد ہیں۔ کہ مذکورہ پہلے کبھی اس محلہ میں رہا ہے۔ دوران تفتیش شریف جان نے بتلایا کہ اس کا عبید الرحمان کے ساتھ رابطہ ہے وہ اس کو پیشکرے گا۔ تاہم مذکورہ کو پیش نہیں کیا گیا۔ اس لیے بھی کہ اگر آپ کو پیش کیا گیا تو اس ڈرامہ کی مزید حقیقت واضح ہو جائے گی۔ تاہم عبید الرحمان اصل مالک پلاٹ کی تلاش منجانب تفتیشی ٹیم جاری ہے۔

واضح رہے کہ بحوالہ مقدمہ علت نمبر 153 مورخہ 01.03.2011 جرم 506 تپ تھانہ خزانہ، اجمل خان ولد رضا خان نے ان ملازمان کے خلاف رپورٹ کی تھی۔ اسمیں خالد وغیرہ ملازمان 05.03.2011 تک حوالات جوہر میں رہے۔ اجمل خان نے عدالت میں ایک بیان حلفی داخل کی تھی۔ کہ اس نے خالد وغیرہ ملازمان کو فی سبیل اللہ معاف کر دیے ہیں۔ تفتیشی ٹیم نے اس اسٹامپ کی کاپی عدالت سے حاصل کر کے اسٹامپ نوٹس اختر گل شہزاد کے سامنے رکھا۔ اس نے تحریر کیا کہ یہ اسٹامپ اس کا تحریر کردہ نہیں نہ ہی اس کا مہر ہے۔ علاوہ ازیں جنت گل ولد صنوبر سکنہ بخشوپل اور تسلیم خان ولد اعظم خان سکنہ تخت آباد جیکے نام اس اسٹامپ پیپر پر بطور گواہ درج تھے ہر دو کو طلب کر کے جنہوں نے بتلایا کہ اجمل خان نے ان سے خالی اسٹامپ پیپر پر دستخط لئے تھے اور انہیں بتلایا تھا کہ ایک شخص تاج علی کیساتھ راضی نامہ کرتا ہے۔ لہذا آپ دستخط ثبت کریں۔ دوران تفتیش معلوم ہوا کہ ملازمان خالد وغیرہ اجمل خان کے برخلاف نہیں بلکہ دوست ہیں۔ ان کے دوستی کی تفصیلات آگے موبائل ڈیٹا سے بخوبی ثابت ہو جائیگا۔

اس مرتبہ بھی ملازمان خالد وغیرہ نے نوشہرہ میں اپنے دشمن سے بدلہ لینا تھا اس لئے اجمل خان کو خزانہ کے علاقہ میں دوستانہ فائرنگ پر راضی کیا تھا۔ مگر 01.03.2011 کو شاید وہ نوشہرہ میں اپنے مقصد میں کامیاب نہ ہوئے تھے اب حاضرہ وقوعہ میں چونکہ اجمل خان دوبارہ سامنے نہیں آسکتا تھا اس لئے اس نے اپنے دوست اصغر کو آگے کیا۔

### اس وقوعہ کی حقیقت کیا ہے۔

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ملازمان مقدمہ ہذا خالد وغیرہ کا اپنی ہی گاؤں ڈھیری کٹی خیل نوشہرہ میں دلارم وغیرہ کیساتھ سابقہ دشمنی ہے۔ اندیس بارہ فریقین کے مابین مقدمہ علت 618 مورخہ 29.07.2010 جرم 324/34 تھانہ نوشہرہ کینٹ و مقدمہ علت 619 مورخہ 29.07.2010 جرم 324/34 تھانہ نوشہرہ کینٹ درج رجسٹر ہو چکے ہیں۔ دوران تفتیش معلوم ہوا کہ

خالد وغیرہ ملزمان کروڑ پتی لوگ ہیں۔ اور لیاقت شباب صوبائی وزیر ایکسٹریڈیٹو سیکرٹری کے ساتھ انکے خاص تعلقات ہیں۔ شریف جان ولد رشید گل سکنہ حضرت جان کالونی لنڈے سڑک علاقہ تھانہ خزانہ جو ایک کروڑ پتی آدمی ہے لیاقت شباب کا دوست ہے۔ اجمل خان ولد رضا خان اور اصغر مدعی مقدمہ ہذا شریف جان کے دوست ہیں۔

اجمل خان اور اصغر کا خالد وغیرہ ملزمان کیساتھ دوستانہ تعلقات شریف جان کی وجہ سے پیدا ہوئے۔ شریف جان اس وقوعہ کا سرخیل ہے۔ تھانہ خزانہ کے دو ایسپرائیڈ نیٹ جنہوں نے درخواست کی کہ انکے نام ریکارڈ پر نہ لائے جائیں بتلایا کہ شریف جان نے یہ سازشی منصوبہ اس طرح بنایا کہ SHO راضی محمد اور مدعی اصغر خان کو منصوبہ کو عملی جامہ پہنانے کے لیے بھاری رقم کے عوض راضی کئے اصغر خان اور اجمل خان نے ملزمان خالد وغیرہ کو طلب کر کے اس پلاٹ پر پہنچ کر دوستانہ فائرنگ کر کے صابر SI نے فوری طور پر ملزمان کو گرفتار کر کے تھانہ لے گئے تھے۔ اس سازشی منصوبے کا آگے ثبوت پیش کیا جا رہا ہے۔ اجمل خان کے بیان کے مطابق خالد وغیرہ ملزمان کے لیاقت شباب صوبائی وزیر سے ایسے تعلقات ہیں۔ جس کی تصدیق ہو کر نوشہرہ جوڈیشل حوالات میں ملزمان خالد وغیرہ کیساتھ لیاقت شباب نے مورخہ 04.07.2011 کو ملاقات کی ہے۔ فہرست ملاقاتیاں لف مشل ہے۔

ملزمان خالد وغیرہ کیساتھ وقوعہ ہذا کے بارے میں جوڈیشل حوالات نوشہرہ میں ملاقات، پوچھ گچھ، ملزمان کے

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بیانات میں تضادات:-

ملزم خالد خان نے بیان کیا کہ روز وقوعہ ہمیں اطلاع ملی کہ ہماری پلاٹ واقع گل ٹاؤن ٹرمنہ میں چند کسان کھدائی کر رہے ہیں۔ میں معہ برادر عزیز خان پسران ام حاد، راشد الثوموٹو کار میں بیٹھ کر روانہ ہوئے۔ پلاٹ پہنچ کر 3/4 کسان کھدائی کر رہے تھے۔ میں نے اور برادر عزیز خان نے اپنے اپنے پستولوں سے ان پر ڈرانے دھمکانے کی خاطر فائرنگ کی۔ انہوں نے بھی ایک نے کلاشنکوف اور دوسرے نے پستول سے ہم پر ہوائی فائرنگ کی۔ اس آدمی کا نام اصغر معلوم ہوا جو میرے پلاٹ پر قبضہ کر رہا تھا۔ فائرنگ کے بعد ہم واپس روانہ ہوئے۔ مین روڈ پر نکلنے وقت قبرستان کیساتھ ہماری گاڑی خراب ہوئی۔ 2/3 گھنٹے بعد میں نے خود ٹھیک کر کے روانہ ہوئے۔ قبرستان راستہ میں پولیس نفری کھڑی تھی۔ جنہوں نے ہمیں گرفتار کیا اور تھانہ لے گئے۔

(1) ملزم خالد کا یہ بیان کہ اس کے پلاٹ میں چند کسان کھدائی کر رہے تھے۔ سفید جھوٹ ہے۔ تفتیشی ٹیم نے پلاٹ کی فوٹو گرافی کی ہے۔ پلاٹ میں کسی قسم کی کھدائی یا تازہ تعمیراتی کام نہ پایا گیا۔ علاوہ ازیں موقع سے کلاشنکوف کی خول بھی برآمد نہیں ہوئے ہیں۔

- (۲) ملزم خالد نے اپنی خراب موٹر کار ٹھیک کرنے میں 3 گھنٹے لگائے حالانکہ قبرستان سے نکلنے ہی آدھ فرلانگ پر بدھتی پل کیساتھ گاڑی مسٹریوں کی لاتعداد دکانات ہیں 2/3 گھنٹے کیوں آدمی قبرستان میں گزارے جبکہ ایک آدمی کافی مالدار بھی ہو اور یہ ڈر بھی کہ اس نے کسی پر فائرنگ کی ہے۔
- (۳) خالد ملزم کے مطابق اسے 9MM پستول سے 12/13 فائر کئے ہیں۔ موقع سے 8 عدد دخول برآمد ہوئے ہیں۔
- جبکہ اسی ملزم نے CIO تھانہ خزانہ کو بیان زیر دفعہ CrPC 161 دیتے ہوئے ذکر کیا ہے کہ اس نے کوئی فائرنگ نہیں کیا ہے۔
- (۴) نوشہرہ سے پشاور واردات کیلئے آنا دو آدمی خالی ہاتھ اور دو کیساتھ پستول وہ بھی یہ کہ ایک پستول کیساتھ صرف اور صرف تین کارتوس۔
- (۵) پورے منصوبہ کیساتھ آنا۔ موقع پر اپنے طالب علم بیٹوں حامد اور راشد کو خالی ساتھ لانا۔ عقل سے بالاتر ہے۔
- (۶) نوشہرہ میں اب خوبصورت ٹاؤن بن رہے ہیں۔ وہاں سے ایک کافی مالدار آدمی کا آنا۔ اور ٹرمہ قبرستان کے اندر پیوست گل ٹاؤن میں پلاٹ خریدنا۔
- (۷) ملزم خالد کے مطابق اگر اس پر اصغر وغیرہ دو کسان نے فائرنگ کی تھی۔ تو اس کا قانونی حق بنتا تھا کہ وہ بھی اصغر کے خلاف FIR کرنا مگر ایسا اس لئے نہیں کیا گیا کہ اس وقوعہ میں کوئی حقیقت نہیں تھی۔
- (۸) بیان میں کہا ہے۔ کہ اصغر کو نہیں جانتا تھا جبکہ اس جواب میں ذکر کیا کہ اصغر کو 5/6 مہینوں سے اجمل خان کی وساطت سے جانتا ہوں۔
- (۹) اصغر نے ذکر کیا تھا کہ اس نے یہ پلاٹ عبید نامی شخص پر فروخت کیا تھا۔ اور عبید نے اگر اصغر کو کہا کہ پلاٹ ڈالیں کرتا ہوں کیونکہ نوشہرہ کے کچھ لوگ اس پر دعویٰ کرتے ہیں۔ ملزم خالد نے سوال کے جواب میں کہا ہے کہ وہ عبید نامی کسی شخص کو نہیں جانتا۔
- (۱۰) ملزم خالد پر سوال کیا گیا کہ اجمل خان نے پہلے بھی 01.03.2011 کو PPC 506 کے خلاف بوقت 19:00 بجے درج کیا تھا۔ اور موجودہ مقدمہ بھی اصغر نے بوقت 19:00 بجے درج کیا ہے کیا وجہ ہے جو بارے میں کوئی جواب نہ دے سکا۔

(11) صابر SI کے مطابق وہ فوراً موقع پہنچے تھے موقع پر پہنچنے کیلئے ایک ہی راستہ ہے ملزم خالد کے مطابق وقوعہ کے بعد 2/3 گھنٹے اسی راستہ میں وہ موٹر کار ٹھیک کر رہے تھے۔ جبکہ صابر SI نے کہا کہ اس نے اس راستے پر آتے وقت ان ملزمان کو نہیں دیکھا ہے۔

(12) چاروں ملزمان کے پاس موبائل تھے جو مقامی پولیس نے قبضہ کئے تھے۔ مگر وہ انکاری ہیں کہ ان کے پاس موبائل نہیں تھے۔

صاحب حیثیت خاندان کا گھر سے واردات کیلئے آنا۔ موبائل نہ لانا کوئی بھی ماننے کیلئے تیار نہ ہوگا۔

(13) ملزم عزیز نے بھی کراس سوال جواب میں بتلایا ہے کہ اس کے ساتھ موبائل نہیں تھا۔ حالانکہ اس کا موبائل سیٹ قبضہ پولیس ہے۔

(14) ملزم خالد نے اجمل خان کیساتھ تنازعہ کا ذکر کیا ہے جس پر پہلے ساز باز سے 01.03.2011 کو PPC506 درج رجسٹر ہوا تھا۔ جبکہ خالد کے بیٹے ملزم حامد کا بیان ہے کہ اجمل خان اس کے والد کا دوست ہے۔ وہ نوشہرہ ہمارے CNG پمپ آتا جاتا تھا۔ جبکہ والد ام اس کو دیکھنے کیلئے پشاور آتے جاتے تھے۔

(15) اصغر نے بتلایا تھا کہ اس نے FIR میں ملزم خالد کے بیٹوں کے نام حامد اور راشد لئے تھے ان کے نام اسکو پہلے سے اس لئے معلوم تھے کہ یہ ایک مرتبہ والد کیساتھ اسکے ہاں آئے تھے۔ جبکہ ملزم حامد کا بیان ہے کہ سوائے اجمل خان کے جو اس کے والد کا دوست ہے کسی کو نہیں جانتا۔

(16) ملزم ارشد کے مطابق پلاٹ میں 5/6 کسان میں اجمل خان بھی تھا۔ جنہوں نے بھی ہم پر فائرنگ کی۔ ملزمان کی انٹاروگیشن سے یہ ثابت ہوا کہ اصغر اور خالد کے مابین دوستانہ تعلقات ہیں۔ جائے موجودگی مدعی سے کوئی خوالہ کار توں برآمد نہیں ہوئے۔

### اب اس وقوعہ کی مزید حقیقت:-

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بیان اذان صابر خان SI پریشن تھانہ خزانہ:-

جناب عالی!

بحوالہ مقدمہ علت نمبر 478 مورخہ 29.05.2011 جرم PPC506 معروض ہوں کہ مورخہ 29.05.2011 کو دوران موبائل گشت فائرنگ کی آواز سن کر فوراً جائے وقوعہ بالا گیا۔ موقع پر مسمی اصغر خان ولد امین خان سکند شاہی پایاں موجود پا کر جس نے رپورٹ کی کہ میں نے گل ٹاؤن میں 10 1/2 مرلے پلاٹ اجمل سے خرید کر

- عبداللہ پرنس وقت کیا تھا۔ عبداللہ نے مجھے کہا کہ اس پلاٹ پر چند کسان بیبیوں کی ذمہ داری کرتا ہے یہ پلاٹ میں واقع کرتا ہوں۔ آج میں پلاٹ کے ساتھ موجود تھا۔ کہ اس دوران مسلمان خالد عزیز پسران عالم خان، حامد، راشد پسران خالد خان ساکنان ڈھیری کی ٹیلی فون مشورہ مسلح آئے ہر چاروں نے مجھ پر ڈرانے دھمکانے کی خاطر ہوائی فائرنگ کی۔ جو عداوت پلاٹ کا تازعہ ہے تو وہ ہذا سید علی ولد محمد حیات سکندریا کی کرپاز نے پیش خورد کیا ہے۔ سن SI نے سراسر تخریب کے تھانے ارسال کیا۔ جس پر مقدمہ درج رجسٹر ہو کر ناصر خان S/CIO کو تفتیش کیلئے حوالہ ہوئی۔ میں نے بلوان کی گرفتاری کی کوشش کرتے ہوئے بلوان کو آل فائر سسٹم گرفتار کر کے خالہ کے قبضہ سے 9MM پستول نمبر 22-13AO کارٹوس عزیز بلنم کے قبضہ سے پستول 30 بور 3 عدد کاٹوس، برآمد کر کے علیحدہ مقدمہ عجلت نمبر 482 بجزم 22-13AO بھی بلوان کے خلاف درج رجسٹر کیا گیا۔ گرفتاری کا ڈبل نامان جاری کر کے گرفتاری ضمنی تخریبی ہے۔ میں میرا بیان ہے۔
- (1) صابر خان SI نے بیان کے کر اس سوال جواب میں بتلایا کہ اس نے 19:30 بجے سراسر تخریبی ہے جبکہ 21:50 بجے اسے ایک کال آیا کہ وہی بلوان ٹرمینلستان کے راستے سے اٹو گاڑی میں آ رہے ہیں۔ لہذا صابر SI کے مطابق .
- 22:00 بجے یعنی تو عہ کے تین گھنٹے بعد اس نے دوران تاکہ بندی ان بلوان کو گرفتار کئے تھے۔ صابر خان SI کا موبائل ڈیٹا حاصل کر کے ملاحظہ ہو کر 21:13 سے لیکر 22:45 تک اسے کوئی کال موصول نہیں ہوئی ہے۔ 9 ملی
- (۲) صابر خان SI نے ساشی منصور سے اپنے آپکو پروردہ میں رکھنے کیلئے بلوان کو موقع پر گرفتار نہیں کئے ہیں۔ 3 گھنٹے بعد دوران تاکہ بندی گرفتاری شکر تار ہے حالانکہ المانج میاں رشید گل لا تعلق اور بے داعی شخصیت کے وہ مطابق وہ مقدمہ خان کی گل ناڈن میں موجود تھے کہ اس دوران سفیر الٹو میں چند کسان آئے جن میں سے ایک شریف جان مکند حضرت جان کالونی بھی تھا۔ ان کسان میں سے کلشکوف والے شخص نے اپنے دوسرے ساتھی کو کہا کہ تم مجھے پکڑو میں ہوائی فائرنگ کا روٹنگ اس نے فائرنگ کی اسکے بعد پلاٹ میں موجود چند کسان میں سے بھی ایک شخص نے ہوائی فائرنگ شروع کی۔ کلشکوف اور پستول کی فائرروں کا ہوا اس اٹھی اٹھ رہا تھا کہ صابر SI موقع پہنچ گئے ان بلوان کیسا تھ بیٹھ گئے ان بلوان میں کلشکوف والے شخص نے اپنا کلشکوف مدعی پارٹی کے ایک آدمی کو حوالہ کر کے کہا کہ جاؤ اس کو سنبھالو۔ اس وقت صابر خان SI موجود تھے۔ یہی بیان دوسرے تعلق گواہ خان زلی کا بھی ہے۔ میاں رشید گل کا بیان زیر نمبر 164
- شرف قائم بند کیا گیا ہے۔
- (۳) صابر خان SI کو تفتیشی ٹیم نے بار بار تاکید کی کہ اگر وہ اس ساشی منصور میں شامل نہیں تو حقیقت بتائے اس کے خلاف کوئی ایکشن نہیں لیا جائیگا۔ تاہم اس نے کہا کہ وہ قرآن اور طلاق اٹھاتے ہیں کہ اس کا مذمتی کیسا تھا اور نہ اس منصور نے کسی سرخیل کیسا تھا سزا باز ہے۔ تاہم نیچے دیئے ہوئے موبائل ڈیٹا تفصیل اس کے اس بیان کو چھوٹا کرتا کرنے کے لیے کافی ہے۔ جو ذیل ہے۔

## روز وقوعہ 29.05.2011 ان منصوبہ سازوں کے ایک دوسرے کیساتھ رابطوں کی تفصیل:-

ملزم خالد موبائل نمبر 0321-9764686 شریف جان موبائل نمبر 0301-8858753

اجمل خان موبائل نمبر 0308-5262135 مدعی اصغر موبائل نمبر 0300-9599982

راضی محمد SHO تھانہ خزانہ موبائل نمبر 0312,0333-9401950

صابر خان SI تھانہ خزانہ موبائل نمبر 0300-5978430

1- 08:25 بجے ملزم خالد نے شریف جان کیساتھ رابطہ کیا ہے۔

2- 14:16 بجے شریف جان نے اجمل خان کو ملا کر بات چیت کی ہے۔

3- 14:37 بجے اجمل خان نے شریف جان کو ملا کر بات چیت کی ہے۔

4- 15:08 بجے اجمل خان نے شریف جان کو ملا کر بات چیت کی ہے۔

5- 15:35 بجے شریف جان نے اصغر مدعی کیساتھ بات چیت کی ہے۔

6- 16:47 بجے اصغر نے پھر شریف جان کیساتھ بات چیت کی ہے۔

7- 17:00 بجے شریف جان نے اصغر کیساتھ بات چیت کی ہے۔

8- 18:14 بجے SHO راضی محمد نے ناصر خان SI انوشی گیشن (جوشب باشی پر تھا) رابطہ کیا ہے۔

9- 18:17 بجے SHO راضی محمد نے ناصر خان SI انوشی گیشن (جوشب باشی پر تھا) رابطہ کیا ہے۔

10- 18:50 بجے ملزم خالد نے شریف جان کے ساتھ رابطہ کیا ہے۔

11- 18:51 بجے اجمل خان نے خالد کو فون کر کے بات چیت کی ہے۔

12- 19:06 بجے مدعی اصغر نے صابر SI کو ملا کر بات چیت کی ہے۔ واضح رہے کہ مراسلہ میں وقت رپورٹ 3:30 بجے ہے۔ اس سے واضح ہوا کہ مدعی ہی نے صابر SI کو فون کر کے موقع پر طلب کیا تھا۔ جبکہ صابر SI نے بیان

کہ اس نے فائرنگ کی آواز سن کر موقع پہنچا تو مدعی نے رپورٹ کی۔ وقت رپورٹ سے 24 منٹ پہلے صابر SI

کو موقع پر طلب کرنا اس بات کی غمازی کرتا ہے کہ صابر SI اور مدعی اصغر کے درمیان پہلے ہی سے یہ منصوبہ

شدہ تھا۔ مدعی اصغر کے مطابق اس نے صابر SI کو کال نہیں کی ہے۔ جبکہ صابر SI کا بھی یہی بیان ہے کہ وہ

فائرنگ کی آواز سن کر موقع پہنچا ہے۔ نہ وہ مدعی کو پہلے سے پہچانتا تھا نہ ہی وقت رپورٹ سے پہلے مدعی نے

اسے رابطہ کیا ہے۔ ہر دو کے بیانات کے برعکس موبائل ڈیٹا قابل ملاحظہ ہے۔

- ۱۳- 19:24 بجے مدعی اصغر نے دوبارہ صابر SI کو فون کر کے بات چیت کی ہے۔
- ۱۴- 19:28 بجے مدعی اصغر نے تیسری مرتبہ صابر SI کو کال کر کے بات چیت کی ہے۔
- ۱۵- 19:43 بجے راضی محمد SHO نے شریف جان کو ملا کر بات چیت کی ہے۔
- ۱۶- 21:14 بجے صابر خان SI نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔
- ۱۷- 21:16 بجے صابر خان SI نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔
- ۱۸- 21:18 بجے صابر خان SI نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔
- ۱۹- 21:25 بجے صابر خان SI نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔
- ۲۰- 21:36 بجے راضی محمد SHO نے ایک مرتبہ پھر شریف جان کو ملا کر بات چیت کی ہے۔
- ۲۱- 21:41 بجے صابر خان SI نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔
- ۲۲- 23:09 بجے شریف جان نے راضی محمد SHO کو ملا کر بات چیت کی ہے۔

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**30.05.2011** بوقت 07:57 بجے صابر SI نے مدعی اصغر کیساتھ اس کے نمبر 0300-9599982 پر رابطہ کیا ہے۔ حالانکہ جب تفتیش CIO ناصر خان کے حوالہ ہوئی صابر SI کی اس کیس میں مداخلت ختم ہوئی۔

**30.05.2011** بوقت 08:01 بجے پھر مدعی اصغر کو ملا یا ہے۔

**30.05.2011** بوقت 21:54 بجے پھر اس نے اصغر مدعی کو ملا کر بات چیت کی ہے۔

**01.06.2011** بوقت 13:50 بجے اس نے سازشی منصوبے کے سرخیل شریف جان کو ملا یا ہے۔

**16.06.2011** بوقت 21:08 بجے پھر اس نے شریف جان کو ملا یا ہے۔

**16.06.2011** بوقت 22:50 بجے شریف جان نے صابر SI کو ملا یا ہے۔

**17.06.2011** بوقت 12:53 بجے صابر SI نے شریف جان کو ملا یا ہے۔

**18.06.2011** بوقت 11:10 بجے صابر SI نے اپنے موبائل سے شریف جان کو ملا یا ہے۔

**18.06.2011** بوقت 11:38 بجے صابر SI نے اپنے موبائل سے شریف جان کو ملا یا ہے۔

**20.06.2011** بوقت 20:48 بجے صابر SI نے شریف جان کو ملا کر بات چیت کی ہے۔

**20.06.2011** بوقت 22:35 بجے شریف جان نے صابر SI کو ملا یا ہے۔

**20.06.2011** بوقت 22:23 بجے صابر SI نے شریف جان کو ملا کر بات چیت کی ہے۔

**22.06.2011** بوقت 11:39 بجے شریف جان نے صابر SI کو ملا کر بات چیت کی ہے۔



- (۴) صابر SI کی ذمہ داری تھی کہ وہ موقع سے خول اٹھا کر بروئے فرد قبضہ پولیس میں کرتے۔
- (۵) صابر SI نے مد نمبر 23 میں بوقت 22:30 بجے روزنامہ میں واپسی کی ہے جبکہ موبائل ڈیٹا سے معلوم ہوتا ہے کہ 22:47 تک تھانہ سے باہر تھے کیونکہ تھانے کے PTCL نمبر 091-2049167 سے اسے متواتر کالیں موصول ہوئے ہیں۔

(۶) صابر SI نے موٹر کار الٹو کا ذکر اپنے واپسی میں کیا ہے موٹر کار کے متعلق 523/550 ضف یادگیر کوئی کارروائی نہیں کی گئی۔

(۷) صابر SI کا فرض تھا کہ گرفتاری کے بعد فوراً تھانہ نوشہرہ کینٹ کو اطلاع کرتے یہی اطلاع دوسرے دن یعنی 30.05.2011 کو شام کی بوقت تھانہ نوشہرہ کینٹ کو کی گئی۔ جبکہ یہی ملزمان 30.05.2011 صبح 07:30 بجے تھانہ نوشہرہ کینٹ FIR نمبر 504 میں بیان نزع کے تحت چارج تھے۔

(۸) صابر خان SI نے ملزمان اور مدعی مقدمہ کے درمیان کوئی کارروائی انسدادی نہیں کی ہے۔

(۹) صابر خان SI نے مراسلہ میں تحریر کیا ہے کہ اس نے مراسلہ بدست کنشیل قدوس نمبر 228 ارسال تھانہ کیا تھا جبکہ کنشیل قدوس کا بیان ہے کہ اسے مراسلہ حوالہ نہیں ہوئی ہے۔

### وقوعہ کی لا تعلق گواہان چشم دید:

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الحاج میاں رشید گل ولد محمد ابراہیم سکند لڑمہ (رشید گل پراپرٹی ڈیلر) لنڈے سڑک چارسدہ روڈ، خانزئی ولد میرزا خان سکند لنڈے سڑک ہیں۔ دونوں کے بیانات ایک ہی ہیں۔ لہذا یہاں پر میاں رشید گل کا بیان قابل ملاحظہ ہے "میں معہ خان زلی پراپرٹی کا کاروبار کرتا ہوں مورخہ 29/05.2011 کو بعد ادائے نماز عصر میں معہ خان زلی گل ماؤنٹ چلے گئے تھے غروب آفتاب کا وقت تھا کہ ایک الٹو سفید موٹر کار میں پانچ کسان آئے جن میں ایک شریف جان ولد رشید گل سکند حضرت جان کالونی بھی تھا۔ موٹر کار سے اتر کر ایک آدمی کیساتھ کلاشکوف تھا اور دوسرے کیساتھ پستول تھا شریف جان اور بقایا دو کسان کیساتھ میں نے اسلحہ نہیں دیکھا تھا کلاشکوف والے آدمی نے اپنے ساتھی کو بتلایا کہ آپ مجھے پکڑو گے میں فائرنگ کرتا ہوں۔ وہاں پر پلاٹ میں پہلے سے 7/8 کسان موجود تھے کلاشکوف اور پستول والے کسان نے ہوائی فائرنگ شروع کی اس کے بعد پلاٹ میں موجود کسان میں سے ایک شخص نے بھی ہوائی فائرنگ شروع کی اس وقت میں موقع پر جبکہ کلاشکوف اور پستول کے فائرنگ کا دھواں ابھی اٹھ رہا تھا کہ صابر خان SI موبائل میں پہنچے صابر SI ملزمان کیساتھ وہاں پر بیٹھ گئے۔ صابر SI کی موجودگی میں کلاشکوف والے ملزم نے اپنا کلاشکوف مدعی پارٹی کے ایک شخص کو حوالہ کر کے کہا کہ جانو اس کو سنبھالو۔ صابر خان SI نے ملزمان کو موبائل گاڑی میں اسی وقت بٹھا کر تھانہ لے گئے میری دانست میں یہ ایک ذرا ہے۔"

تھا۔ میاں رشید گل کا یہی بیان زیر دفعہ CrPC-164 عدالت میں بھی قلمبند کرایا گیا۔ اس سے پایا گیا کہ صابر خان SI نے غلط بیانی کی ہے۔ کہ اس نے وقوعہ کے تین گھنٹے بعد ملزمان کو دوران ناکہ بندی گرفتار کئے۔

### وقوعہ کی مزید حقیقت:

روز وقوعہ فضل رازق ASI تھانہ میں موجود تھا۔ FIR پر دستخط موجود افسر کا ہوتا ہے۔ فضل رازق ASI کے متعلق معلوم ہوا کہ وہ ایک پرہیزگار شخصیت کا مالک ہے۔ FIR اسکے سامنے نہیں لایا گیا کیونکہ وہ شاید منصوبہ سے باخبر تھا اس لئے اس کا جعلی دستخط کسی اور نے FIR پر ثبت کیا۔

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### فضل رازق ASI کا اپنے ہاتھ سے تحریر کردہ بیان:

"میں مسمی فضل رازق ASI آج مورخہ 05.07.2011 کو حسب طلبی انسپکٹر افسر خان کراچی پشاور بسلسلہ تفتیش مقدمہ علت نمبر 478 مورخہ 29.05.2011 جرم PPC506 تھانہ خزانہ طلب کر کے انسپکٹر صاحب نے مجھے FIR اصل دکھا کر کے اس FIR پر چا کیدیگی کی دستخط آپ نے کیا ہے۔ جب میں نے FIR کی پڑتال کی تو FIR پر کسی نے میرا دستخط کیا ہے۔ جو کہ یہ میرا دستخط نہیں ہے۔ مجھے پتہ نہیں کہ یہ دستخط کس نے کس کے ایما پر کیا ہے۔ اس معاملے میں بالکل لاعلم ہوں۔ میں نے اس مقدمہ کے ملزمان کو نہ دیکھے ہیں اور نہ ملزمان نہ پہلے سے اور اب بھی میں ملزمان کو نہیں جانتا۔ اور نہ ہی میں نے اس کیس کے ملزمان تھانہ میں دیکھے ہیں۔ اپنی تحریری بیان کے نیچے دو جگہ دستخط کر کے بیان کیا ہے۔ کہ یہی اس کا اصل دستخط ہے۔

FIR پر موجود دستخط اور بیان پر فضل رازق ASI کے دستخط میں نمایاں فرق ہے۔ جس سے پایا گیا کہ FIR پر ثبت شدہ دستخط فضل رازق ASI کا دستخط نہیں ہے۔

### 19- ناصر خان SI/CIO کی تفتیش، ذمہ داری۔

بیان آزان ناصر خان SI/CIO تھانہ خزانہ۔

بحوالہ مقدمہ علت 478 مورخہ 29.5.2011 جرم 506 تپ تھانہ خزانہ معروض خدمت ہوں کہ مدعی اصغر ولد آمین خان سکنہ شاہی پایاں مٹھرانے صابر خان SI کو دوران گشت رپورٹ کی تھی۔ صابر خان SI نے مٹھرا سائے تحریر کر کے مجھے امور تفتیش کیا گیا۔ نقل FIR موصول ہو کر موقعہ پر جا کر اندھیری رات تھی۔ گواہ، مدعی موجود نہ تھے۔ تفتیش موقعہ ملتوی رکھا جا کر گرد و نواح میں تلاش کرتا رہا۔ واپس آ کر معلوم ہوا کہ ملزمان مقدمہ ہذا کو صابر SI نے معاذ اللہ گرفتار کر کے ملزمان خالد، عزیز، حامد، ارشد کو حوالا ت میں بند کئے ہیں۔

مورخہ 30.5.2011 کو مدعی مقدمہ طلب کر کے موقع پر جا کر اس کی نشاندہی پر ملاحظہ موقع کر کے ہو کر نقشہ بلاسکیل مرتب کیا۔ جائے وقوعہ سے اٹھ عدد خول 9MM برآمد کر کے یہ موجودگی گواہان بروئے فرد قبضہ پولیس کی گواہان کے بیانات لیے تھانہ آ کر اسلحہ قبضہ شدہ پستول 9MM، پستول 30 بور بروئے فرد قبضہ کی۔ ملزمان کو مجسٹریٹ علاقہ کے سامنے پیش کئے۔ جو حوالات جوڈیشل بھیجوائے گئے۔ خول قبضہ شدہ پستول 9MM کے ساتھ FSL بھیجوائے جو رائے موصول ہو کر خول اسی پستول سے چلائے گئے ہیں۔ مقدمہ میں دیگر تفتیش ختم تھی بغرض ترتیب چالان SHO کو حوالہ کی گئی اور ملزمان کی اطلاع متعلقہ پولیس کو دی گئی۔

نوٹ:- (۱) مورخہ 29.5.2011 کو ناصر خان SI/CIO نے بوقت 20:25 تا 23:40 موقع کا معائنہ کیا ہے۔ نمبر 1 تحریر کی ہے لیکن روزنامچہ میں روانگی واپسی نہیں ہے۔

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(۲) رات کو معائنہ موقع کرتا ہے اور جائے موجودگی ملزمان سے خول دوسرے دن صبح برآمد کرتا ہے۔ جبکہ جائے موجودگی مدعی سے کوئی خول کارٹوس برآمد نہیں ہوئے اور نہ ہی ملزمان نے اس بات کی رپورٹ تھانہ میں کی ہے۔

(۳) مدعی نے رپورٹ میں ذکر کیا ہے کہ چاروں ملزمان نے اس پر فائرنگ کی ہے۔ دو ملزموں سے پستول برآمد ہوئے تھے جبکہ دو سے کچھ برآمد نہ ہوا تھا۔ CIO کا فرض تھا کہ ریکوری کے لیے ملزمان کی حراست پولیس کے لیے درخواست ضرور کرتا۔ لیکن ایسا نہیں کیا گیا ہے۔

(۴) مقدمہ ہذا میں ملزمان کے 3 عدد موبائل سیٹ مورخہ 18.6.2011 کو کلیم اللہ محرر نے CIO کو حوالہ کئے تھے جو بروئے فرد قبضہ میں کئے ہیں۔ CIO کا فرض بنتا تھا کہ 29.5.2011 ہی کو ان موبائل سیٹس کو قبضہ میں کرتے اور اس ڈرامہ کی حقیقت موبائل ڈیٹا سے بھی معلوم کرتے۔

(۵) CIO نے مدعی سے متنازعہ پلاٹ کی ثبوت کاغذات ملکیت طلب کر کے صحیح انداز میں تفتیش کر سکتا تھا مگر ایسا نہ کیا گیا۔

(۶) CIO تعلق گواہان کوٹریس کر کے حقیقت معلوم کر سکتا تھا مگر ایسا نہ کیا گیا۔

(۷) مدعی نے ذکر کیا ہے کہ اس نے یہ پلاٹ عبید نامی شخص پر فروخت کیا ہے۔ CIO نے عبید کوٹریس کرنے کی نہیں کی۔

(۸) ناصر خان SI نے ملزمان اور مدعی کے درمیان انسدادی کارروائی بھی نہیں کی۔

(۹) دوران دوبارہ تفتیش معلوم ہوا کہ مورخہ 29.05.2011 کو ناصر CIO شب ہاشمی پر اپنے گاؤں پر ہوا تھا مورخہ 30.05.2011 کو پیر کی صبح واپس تھانہ پہنچا ہے۔ اس کا واضح ثبوت یہ ہے کہ مورخہ

29.05.11 کو تو اس نے رات 20:25 بجے موقع کا معائنہ کیا ہے لیکن روز نامچہ میں روائگی واپسی نہیں ہے۔

(۱۰) یہ بھی معلوم ہوا کہ SHO راضی محمد نے ناصر خان SI/CIO کو فون کیا تھا کہ شب باشی سے واپس آجائے شام کو ایک 506 مقدمہ درج کیا جائیگا۔ جس کی تفتیش اس نے کرنی ہے۔ ناصر خان SI/CIO کی موبائل ڈیٹا سے واضح ہے کہ SHO راضی محمد خان نے عین 18:14 بجے 29.05.2011 ناصر خان کو ملایا ہے۔ ناصر خان SI کی موجودگی موبائل ٹاور سے پڑانگ غار معلوم ہوتا ہے۔

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(۱۱) ناصر خان SI/CIO کی روز وقوعہ تھانہ میں نہ ہونے کا ایک واضح ثبوت یہ بھی ہے۔ کہ موبائل ڈیٹا سے مورخہ 30.05.2011 صبح 05:29 بجے تھانہ خزانہ کے PTCL نمبر 091-2049167 سے صبح سویرے انکو پھر ملایا گیا ہے۔ غالباً اس کو تفتیش کیلئے جلدی آنے کی ہدایت کی ہوگی۔ واضح رہے کہ ناصر SI نے پیر کی روز مورخہ 30.05.2011 کو صبح تھانہ خزانہ پہنچ کر اپنی واپسی کی رپورٹ سابقہ روز نامچہ 29.05.2011 بوقت 17:30 بجے کی ہے۔ مزید وضاحت کی جاتی ہے کہ مورخہ 30.05.2011 صبح آخری بار تھانہ خزانہ سے اس کو 07:04 بجے تھانہ خزانہ کے PTCL نمبر 091-204167 سے پھر بات ہوئی ہے۔ ناصر خان SI کی پوزیشن موبائل ٹاور سے اس کا گاؤں پڑانگ غار بتلاتا ہے۔

(۱۲) موبائل ٹاور سے پتہ چلتا ہے کہ ناصر خان SI رات کے وقت آیا ہی نہیں ہے۔ اور رات کی ضمنی نمبر 1 تفتیش کی خانہ پری کے لیے لکھی گئی ہے۔

(۱۳) ناصر خان SI انوسٹی گیشن تھانہ خزانہ نے صرف ایک دن میں 506/34 کی تفتیش ختم کر کے چالان دینے کے لیے SHO کو حوالہ کیا ہے۔

### سازشی منصوبہ کی ایک اور حقیقت:

### بیان اذان فضل خالق ASI تھانہ خزانہ۔

بحوالہ مقدمہ علت نمبر 153 مورخہ 01.03.2011 جرم 506 تپ تھانہ خزانہ مدعی اجمل خان ولد رضا خان سکندہ ترنگڑی محلہ قاسم خیل چارسدہ نے ملزمان خالد، فضل سبحان، عزیز خان، ارشد خان، حامد خان ساکنان ڈھیری کٹی خیل نوشہرہ رپورٹ کر کے میں نے تفتیش کی ملزمان کو چالان عدالت کئے ہیں۔ مورخہ 05.03.2011 کو مدعی مقدمہ اجمل خان نے بیان حلفی راضی نامہ کیلئے عدالت میں پیش کیا کہ اس نے ملزمان کو فی سبیل اللہ معاف کئے ہیں۔ اگر

عدالت ملزمان کو بری کرے۔ ضمانت پر چھوڑ دے یا کیس کو ختم کرے مجھے کوئی اعتراض نہیں۔ مجھے یہ پتہ نہیں کہ یہ اسٹامپ پیپر جعلی تھا یا اصلی کیونکہ میں نے ملزمان کو چالان کئے تھے۔

مورخہ 29.05.2011 عصر ویلا چونکہ میں شب باسی پر تھا عصر ویلا بدوران شب باشی راضی محمد خان SHO نے مجھے فون کر کے کہا کہ 506 تپ کا ایک مقدمہ درج کیا جائیگا اسکی تفتیش اپ کو حوالہ کرتے ہیں جو میں نے اس تفتیش سے صاف انکار کیا۔ اس کیس کی تفتیش کا بعد میں کیا ہوا میں مزید لاعلم ہوں کیونکہ میری اس سے کوئی دلچسپی نہیں تھی۔

نوٹ: تفتیشی ٹیم کے نوٹس میں یہ بات بھی آئی کہ SHO نے فضل خالق ASI کو یہ بھی کہا تھا کہ اسکو اچھی خاصی رقم بھی اس تفتیش کے عوض ملی گی۔

تھانہ خزانہ کے PTCL کا ڈیٹا حاصل کر کے واقعی ٹھیک مورخہ 29.05.2011 کو 17:59 بجے فضل خالق ASI کو اسکے موبائل نمبر 0300-5666397 پر ملایا گیا ہے۔ جس سے فضل خالق ASI کی بیان کی تصدیق ہو جاتی ہے۔ اس سے صاف طور پر معلوم ہوا کہ یہ مقدمہ 506 ایک خاص سوچے سمجھے منصوبہ کے تحت درج کیا گیا ہے۔ تاکہ ملزمان خالد وغیرہ تھانہ نوشہرہ کینٹ کے سنگین مقدمہ قتل سے بری الذمہ ہو جائے۔

22 وقوعہ ہذا حقیقت میں ڈرامہ ہے ایک اور ثبوت:

ملزمان مقدمہ ہذا خالد وغیرہ اجمل خان اور اصغر کو اپنے برخلاف بتلاتے ہیں اور اس کا ثبوت یہ دیتے ہیں کہ یہ دوسری مرتبہ اجمل خان اور اصغر نے ملزمان کے خلاف 506 تپ کا مقدمہ تھانہ خزانہ میں درج رجسٹر کیا ہے اس فائل رپورٹ کی ابتدا میں پہلے ہی عرض کر چکا ہوں کہ شریف جان، اجمل خان اور اصغر ملزمان خالد وغیرہ کے قریبی دوست ہیں ملزمان خالد وغیرہ نے نوشہرہ میں اپنے دشمن سے بدلہ لینے کیلئے تھانہ خزانہ کے علاقہ میں انہی دوستان کی ایما اور مرضی سے دو مرتبہ PPC 506 کا ڈرامہ رچایا ہے۔ تاکہ نوشہرہ میں دعویٰ درج کی صورت میں 506 PPC کا فائدہ لیا جاسکے۔ شریف جان سے سوال کیا گیا کہ اُس کا مدعی اصغر کیساتھ کتنے عرصہ سے تعلقات ہیں۔ جواب میں بتلایا کہ اس کا اصغر کیساتھ کوئی تعلق نہیں۔ نہ ہی اُس کو پہلے سے پہچانتا ہے۔ شریف جان کا بیان نیچے دیئے ہوئے موبائل ڈیٹا کے برعکس ہے۔ مورخہ 06.05.2011 تا 02.07.2011 ان تمام ملزمان کا آپس میں رابطوں سے ان کے درمیان دوستانہ تعلقات کا اندازہ لگایا جاسکتا ہے۔

02.07.2011 تا 06.05.2011 شریف جان اور اصغر کے درمیان 66 مرتبہ موبائل فون پر بات چیت ہوئی ہے۔

02.07.2011 تا 06.05.2011 اصغر اور اجمل کے درمیان 32 مرتبہ رابطہ ہوا ہے۔

06.05.2011 تا 02.07.2011 اصغر اور صابر SI کے درمیان 4 مرتبہ کال کر کے باتیں کئے ہیں۔

06.05.2011 تا 02.07.2011 شریف جان اور اجمل نے 77 مرتبہ کو ایک دوسرے کو ملا کر باتیں کئے ہیں۔

06.05.2011 تا 02.07.2011 شریف جان اور ملزم خالد کے درمیان 11 مرتبہ بات چیت ہوئی ہے۔

06.05.2011 تا 02.07.2011 شریف جان اور راضی محمد SHO کے درمیان 19 مرتبہ رابطہ ہوا ہے۔

06.05.2011 تا 02.07.2011 شریف جان اور صابر SI کے درمیان 13 مرتبہ رابطہ ہوا ہے۔

06.05.2011 تا 02.07.2011 اجمل اور خالد ملزم کے درمیان 16 مرتبہ رابطہ ہوا ہے۔

06.05.2011 تا 02.07.2011 اصغر اور ناصر SI انوسٹی گیشن کے درمیان 15 مرتبہ رابطہ ہوا ہے۔

موبائل ڈیٹا کی اس تفصیل سے اس ڈرامے کا مزید حقیقت سامنے آیا ہے اس کے علاوہ ملزم خالد کے پسران ملزمان حامد اور راشد نے انوسٹی گیشن ٹیم کو سپر نٹنڈنٹ جیل کے روبرو بتلایا تھا کہ اجمل اس کے والد کا دوست ہے۔ اجمل اس سے CNG پمپ نوشہرہ آتا جاتا تھا جبکہ خالد اس کے دیکھنے کیلئے پشاور آتا جاتا تھا۔ ان ہردو کے بیانات جیل سپر نٹنڈنٹ؟ ظاہر شاہ سے باقاعدہ Attested کئے گئے ہیں۔

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### جملہ بالا تفصیلی وضاحت کے بعد تفتیشی ٹیم کے سفارشات ذیل ہیں۔

(۱) ملزمان خالد، عزیز خان، حامد، راشد تھانہ نوشہرہ کینٹ میں درج QDO302 مقدمہ سے اپنے آپ کو بچانے کیلئے یہ سازشی منصوبہ بنایا تھا جس کو عملی جامہ پہنانے میں شریف جان ولد رشید گل سکنہ حضرت جان کالونی لنڈے سڑک، اصغر ولد امین سکنہ شاہی پایان مٹھرا، اجمل خان ولد رضا خان سکنہ محلہ قاسم خیل ترنگڑی حال خزانہ پایان پشاور۔ راضی محمد سب انسپکشن SHO تھانہ خزانہ، صابر خان سب انسپکشن تھانہ خزانہ نے نہایت موثر کردار ادا کر کے سازشی منصوبے کو پایا تکمیل تک پہنچایا۔ مثل مقدمہ علت نمبر 504 مورخہ 30.05.2011 جرم 302/324/427/148/149 کی ایزادگی کر کے انکو قانون کے موثر گرفت میں لائے جائیں۔

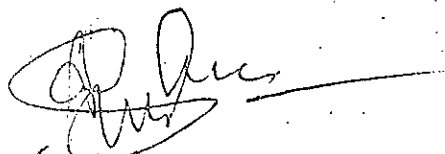
(۲) چونکہ وقوعہ مقدمہ ہذا میں مدعی اصغر اور ملزمان خالد، عزیز، حامد، راشد نے باہمی رضامندی کیساتھ ہوائی فائرنگ کی تھی۔ جسمیں راضی محمد SHO، صابر خان SI، اجمل خان، شریف جان کی ایما شامل تھی۔ اور اس سازش میں مکمل طور پر شریک رہے۔ لہذا مقدمہ ہذا سے دفعہ 506 تپ ڈیلیٹ کر کے اسکی جگہ دفعات PPC203، 3/4 ہوائی فائرنگ اور 109 ایزادگی کر کے ان تمام ملزمان کے خلاف حسب ضابطہ کارروائی کی جائے۔ اور SHO راضی محمد، SI صابر خان کے خلاف سنگین سازشی منصوبے میں شمولیت پر حکمانہ کارروائی کی بھی سفارش کی جاتی ہے۔

(۳) مقدمہ علت نمبر 153 مورخہ 01.03.2011 جرم 506 تپ تھانہ خزانہ جسمیں اجمل خان نے ملزمان خالد، عزیز، فضل سبحان، حامد، راشد کے خلاف اسی قسم کا ڈرامہ رچایا تھا۔ دوران تفتیش معلوم ہوا کہ مورخہ 01.03.2011 کو ملزمان خالد وغیرہ نے دوستانہ فائرنگ کر کے PPC 506 کا ڈرامہ اس لئے رچایا تھا کہ مورخہ 02.03.2011 کو ملزمان کی عدالت ASJ نوشہرہ میں سابقہ دشمنی کے ایک مقدمہ میں پیشی تھی۔ برخلاف کوئل کرنے کا منصوبہ تھا۔ مگر نامعلوم وجوہات کی بناء پر ملزمان مورخہ 02.03.2011 کو کامیاب نہ ہوئے تھے۔ PPC 506 کے اس سابقہ مقدمہ میں اجمل خان کا بیان حلفی اسٹامپ بھی جعلی ثابت ہوا چونکہ اس مقدمہ میں حال ہی میں چالان مکمل افسران بالا کو ارسال کیا جا چکا ہے۔ لہذا اس کو واپس کر کے اس سے بھی دفعہ PPC 506 ڈیلیٹ کر کے اجمل اور متذکرہ بالا ملزمان کے خلاف دفعہ 3/4 ہوائی فائرنگ اور PPC 203/109 کی ایزادگی کی جائے۔ اور ان کے خلاف کارروائی حسب ضابطہ کی جائے۔

(۴) تفتیش مقدمہ ہذا کی فائل رپورٹ کی ایک کاپی CIO تھانہ نوشہرہ کینٹ کو ارسال کرنے کی سفارش کی جاتی ہے۔ تاکہ O اپنی تفتیشی کارروائی بہتر انداز میں پایہ تکمیل تک پہنچا سکے۔

(۵) ناصر خان SI/CIO تھانہ خزانہ کی ناقص تفتیش اور دروغ بیانی اور مقدمہ ہذا میں ملزمان، مدعی کیخلاف کارروائی آئندہ اپنی نہ کرنے کے عوض محکمانہ کارروائی جبکہ کنسٹیبلان قدوس نمبر 228، جرم نمبر 936 حمید نمبر 227 سچ نہ بتانے اور بدستور جھوٹ پر قائم رہنے کے صلے میں بھی ان کے خلاف محکمانہ کی سفارش کی جاتی ہے۔

مقدمہ میں فائل رپورٹ بوساطت افسران بالا صاحبان منظوری کیلئے PPO صاحب سید پختونخوا ایشیا اور کینیڈا گیا ہے۔ جسکے بارے میں جیسی بھی حکم موصول ہو جائے۔ کارروائی ہوگی۔ اس قدر حالات پر فائل رپورٹ مرتب ہو کر گزارش ہے۔

  
(امیر خان)

انسپیکٹر انوسٹی گیشن یونٹ CPO پشاور۔

سید امیر حسین

B

SHOW CAUSE NOTICE

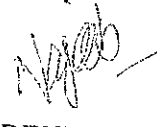
I Sr: Superintendent of Police Operation, Peshawar, as competent authority, under the North-West Frontier Province Removal from Service (Special Power) Ordinance 2000, do here by serve you SI Razi Muhammad No. 691/P the then SHO PS Khazana and SI Sabir Rehman No. 342/P PS Khazana as follows:-


That consequent upon the completion of inquiry conducted against you by **SP Rural**, Peshawar.


It is alleged that you SI/SHO Razi Khan and SI Sabir Khan of PS Khazana having being involved in case FIR No. 504, dated 30.05.2011 u/s 302/324/148/149/109 PPC Police Station Nowshera Kala. In this connection a preliminary enquiry conducted by Addl IG Investigation Khyber Pakhtunkhwa Peshawar who held responsible you SI/SHO Razi Khan and SI Sabir Khan PS Khazana for gross misconduct on your part thus you have been recommended for proper departmental enquiry under Removal from Service (Special Powers) Ordinance-2000.

Your this act is against the discipline of force and shows gross misconduct on your part and renders you liable for punishment under the NWFP Removal from Service Ordinance 2000.

2. As a result thereof, I, as competent authority have tentatively decided to impose upon you SI Razi Muhammad No. 691/P the then SHO PS Khazana and SI Sabir Rehman No. 342/P PS Khazana the major punishment under section 3 of the Ordinance.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
4. If no reply to this notice is received within stipulated period of its deliver, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

  
SR: SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

  
28/9/14

  
350-14



گورنمنٹ ہسپتال ٹریبونل KPR کیشور

دفعہ 1071 Early hearing

1070  
1071  
2014

سٹیشن 1071

1. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

2. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

3. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

4. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

5. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

6. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

7. جسٹس جی ایچ ایچ کے فیصلے کے خلاف درخواست

10/15

Pl. aside as requests by advance in date. Notice to all concerned.

12/87

Handwritten signature and notes at the bottom right.

Render:

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNL, PESHAWAR**

In the Matter

Of

Appeal No. 2/25 / 2014

Sobir Khan

**VERSUS**

**PPO and others**

**APPLICATION FOR EARLY HEARING.**

Respectfully Sheweth,

1. That the titled is pending before this Honourable Tribunal in which next date of hearing is 15/10/2015.
2. That the appellant has in the instant appeal challenged the order of dismissal from service from since the appellant is jobless, therefore, he is suffering as such the appeal in hand deserves to be fixed at an earlier date.
3. That there is no legal impediment in early fixation of the titled appeal.

**It is therefore, most humbly prayed that on acceptance of this application, the next date in the titled appeal may kindly expedited and case may be fixed at an earlier date as convenient to the Honourable Tribunal.**

*Smi*  
Appellant

Through

*Smi*  
**SAJID AMIN**  
Advocate.

*pl accommodate request.*  
*23/6/15*  
*Rehman*

Ph: 9220581.  
Fax: 9220406.

**U.W.P. Provincial  
Service Tribunal**  
382  
13-5-16

REGISTERED  
No. C.As.173-174/16-SCJ (Imp)  
Supreme Court of Pakistan.

Islamabad, 9/5, 2016.

From

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

To

The Registrar  
K.P.K. Service Tribunal,  
Peshawar.

Subject:- Civil Appeal Nos. 173 & 174 of 2016.

Out of

Civil Petition Nos. 3734 & 3735 of 2015.

1. Raazi Khan. (App. in C.A.173/2016).
2. Sabir Khan. (App. in C.A.174/2016).

VERSUS

The Provincial Police Officer, KPK., Peshawar and others.  
(Res. in both cases).

**On appeal from the Judgment and Order of the K.P.K.  
Service Tribunal, Peshawar dated 03.11.2015, in S.A. Nos.  
1070-1071/2014.**

Dear Sir,

In continuation of this Court's letter of even number dated 10.02.2016 and in accordance with the provisions contained in Order X, rule 9, Supreme Court Rules, 1980, a certified copy of the Order of this Court dated 03.05.2016 partly allowing the above cited civil appeals, in the terms stated therein, is enclosed for further necessary action.

The original record of the Service Tribunal received under the cover of your letter No. 263/ST: dated 18.02.2016 is returned herewith.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:  
2. O/Record:

Yours faithfully

(NAZAR ABBAS)  
DEPUTY REGISTRAR  
FOR REGISTRAR

So the needed.  
Supdt  
16/5/16

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE MUSHIR ALAM  
MR. JUSTICE FAISAL ARAB

**CIVIL APPEAL NOs. 173 & 174 OF 2016**

(On appeal against the judgment dated 3.11.2015  
passed by the Khyber Pakhtunkhwa Service Tribunal,  
Peshawar in Service Appeal Nos. 1070 & 1071 of 2014)

Raazi Khan  
Sabir Khan

(In CA 173/2016)

(In CA 174/2016)

... Appellants

**VERSUS**

Provincial Police Officer, KPK, Peshawar etc

(In both cases)

... Respondents

For the Appellants: Mr. Ijaz Anwar, ASC  
(In both cases)

For the Respondents: Mr. Mujahid Ali Khan, Addl. A.G, KPK  
(In both cases)

Date of Hearing: 03.05.2016

**ORDER**

**MUSHIR ALAM, J.**- After making elaborate arguments by learned counsel for the appellant and learned Additional Advocate General, when we were going to dictate the order, learned counsel for the appellants on instructions submitted that the appellants will be satisfied if the penalty of dismissal from service awarded to them be converted into compulsory retirement. Learned Additional Advocate General, KPK, has no objection. In these circumstances, these appeals are partly allowed and the penalty of dismissal from service awarded to the appellants is converted into compulsory retirement from the date on which they were dismissed from service.

Sd/- Mushir Alam, J

Sd/- Faisal Arab, J

Certified to be True Copy

9/5/16  
Court Associate  
Supreme Court of Pakistan  
Islamabad

Islamabad, the  
3rd of May, 2016  
Not Approved For Retotyping  
Khurram



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 828 /ST

Dated 17/5 /2016

To,


The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

Subject:-

CIVIL APPEAL NOS. 173 & 174 OF 2016  
OUT OF  
CIVIL PETITION NOS. 3734 & 3735 OF 2015

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.As.173-174/2016-SCJ(Imp) dated 9.5.2016 alongwith its enclosure.

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR.