

21.05.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment Ordinance, 2013) (Khyber Pakhtunkhwa Order II of 2013), the case is adjourned on note Reader for proceeding as before on 21.6.2013

[Signature]
Reader.

21.6.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 16.8.2013.

[Signature]
Reader.

Request.

*I request you
withdrawal and filled
for fresh appeal*

16.08.2013

m,

Anatol Dow 16/8/2013

Appellant with counsel present and requested for withdrawal of appeal due to some technical reasons with permission to file fresh one. Request is accepted. The appeal is dismissed as withdrawn with permission to file fresh one subject to all legal objections. File be consigned to the record.



ANNOUNCED
16.08.2013

[Signature]
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 582/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/03/2013	<p>The appeal of Mr. Khurshid Alam resubmitted today by Mr. Muhammad Rafiq Khattak 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	1-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>21-5-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Khurshid Alam son of Hassanullah received today i.e. on 14/03/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant and Affidavit be attested from the Oath Commissioner.
- 2- Copies of Charge Sheet, Statement of allegations, Show Cause Notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of Impugned dismissal order dated 27.03.2010 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 4- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be attested.
- 6- Four copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file cover.

No. 421 /S.T,

Dt. 14-3 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. MUHAMMAD RAFIQ KHATTAK ADV. PESH.

NOTE:

Respected Sir,
29/3/2013

No Show cause notice, statement of allegations have given by the respondents.

others requirement have been fulfilled.


No. Hassanullah

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 582 /2013

Khurshid Alam.....Appellant

V E R S U S

Deputy Inspector General of Police, Kohat & others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Service Appeal		1-5
2.	Copy of order dt.20.12.12 of ATC, Kohat	A	6-30
3.	Copy of order dt.25.07.12 of ASJ, Karak	B	31-47
4.	Copy of order dt.03.12.12 of JMIC Karak	C	47-50
5.	Copy of order dt.27.11.12 of JMIC Karak	D	51-53
6.	Copy of dismissal order	E	54
7.	Copy of representation	F	55-56
8.	Copy of rejection order		57
9.	Wakalat Nama		58

Through

Appellant

3

Muhammad Rafique Khattak

Muhammad Rafique Khattak
Advocate, Peshawar

Date: 14/3/2013

①

BEFORE THE SERVICES TRIBUNAL, KPK,
PESHAWAR

Service Appeal No. 582 /2013

[Redacted]
555
14-3-2013

Khurshid Alam S/o Hassanullah
R/o Village Esot Kala, PO Ahmad Abad,
Tehsil Takht-e-Nasrati, District Karak.....Appellant

V E R S U S

1. Deputy Inspector General of Police,
Kohat Region, Kohat
2. District Police Officer, Karak, Distt Karak

.....Respondents

Service appeal against the termination
order dated 27.03.2010 passed by
District Police Officer, Karak.

[Redacted Signature]
14/3/2013
Respectfully Sheweth:

co-submitted to [Redacted] and filed.

1. That the appellant joined service as Constable in the Department of Police in the year 2008.

[Redacted Signature]
29/3/13

2. That the appellant qualified the basic course and started rendering his services.

3. That in the year 2009 while the appellant was posted in P.S Hurum, his father fall seriously ill.
4. That the appellant applied for leave, which was granted and his departure report was recorded in the daily Diary No.26 dated 05.12.2009.
5. That the appellant was managing treatment of his father that in the meanwhile the appellant was implicated in a murder case.
6. That a couple of other criminal case were also registered against the appellant.
7. That the appellant was arrested in the above said cases and was put in to trial, the appellant has been acquitted of all the charges leveled against him. (Copies of acquittal order are annexed as mark "A, B & C" D, respectively).
8. That after his acquittal, the appellant went to Police Line, Karak to submit his arrival but was informed that his services has been dismissed vide order Book No.335 dated 27.03.2010. (Copy of the dismissal from service order is annexed as mark "E").

9. That the appellant moved a department representation to the DIG, Kohat Region, Kohat by the same has been dismissed. (Copy of the same is annexed as mark "E 34")
10. That the appellant approached this Honourable Court for the re-instatement in service for the following amongst other grounds:

GROUND S:

- A. That the appellant behind the bar, which fact was communicated to the respondents and thus the situation was beyond the control of the appellant.
- B. That the appellant has been acquitted in all the cases registered against him.
- C. That the appellant has not wasted anytime in making the departmental representation, which he moved immediately after his release.
- D. That the absence of the appellant was neither willful nor deliberate but because of the circumstances.
- E. That no opportunity of being heard has been provided to the appellant and he has been punished behind his back.
- F. That the punishment so imposed upon the appellant is against the norms and principles of natural justice.

G. That the appellant may rely upon additional grounds during hearing of this appeal.

In view of the aforesaid submissions, it is humbly prayed that by accepting this appeal, the orders of dismissal for service of the appellant may please be set aside and consequently the respondents may please be directed to re-instate the appellant back into the service.

Appellant
محمد رفیق خٹاک

Through

M
Muhammad Rafique Khattak

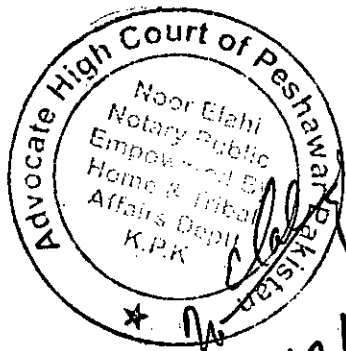
Muhammad Rafique Khattak
Advocate, Peshawar

Date: 14/3/2013

AFFIDAVIT

I, Muhammad Rafique Khattak Advocate, as per instruction of my client, do hereby solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ATTESTED



29/3/13

DEPONENT

verified by the instructions of my client.

M
Muhammad Rafique Khattak

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2013

Khurshid Alam.....Appellant

V E R S U S

Deputy Inspector General of Police, Kohat & others.....Respondents

ADDRESSES OF PARTIES

APPELLANT:

Khurshid Alam S/o Hassanullah
R/o Village Esot Kala, PO Ahmad Abad,
Tehsil Takht-e-Nasrati, District Karak

RESPONDENTS

1. Deputy Inspector General of Police,
Kohat Region, Kohat
2. District Police Officer, Karak, Distt Karak

خورشید عالم

Appellant

Through

by

Muhammad Rafique Khattak

Muhammad Rafique Khattak
Advocate, Peshawar

Date: ___/___/2013

A-32

COURT OF ASGHAR SHAH KHILJI, ADDITIONAL SESSIONS JUDGE,
KARAK TAKHT-E-NASRATI.

Session Case File No. 11/07 of 2011

Date of Institution 19-3-2011

Date of Decision 25-7-2012

State through Wahidullah son of Mir Salib Shah resident of Topi Kalla Tehsil
Takht-e-Nasrati, District Karak..... (Complainant)

VERSUS

1. Muhammad Sabir son of Sher Daraz / Shah Qaisar Banda; and
2. Khurshid Alam son of Hussainullah / Zari Wala, Tehsil Takht-e- Nasrati,
District Karak..... (Accused Under-Trial)

3. Zia ur Rehman son of Gula Maula resident of Ahmadi
Abad..... (Absconding accused)

Case FIR No.409, dated 05-11-2010 U/S 302/34 PPC, PS Takht-e-Nasrati.

JUDGMENT

1) Facts in brief as per FIR are that complainant, Wahidullah, on 05.11.2010 at 21:30 hours made a report to the local police near Rehmat Slam petrol pump to the effect that on the same date he alongwith his brother Awal Khan, a Police constable was proceeding on the motorcycle to their house from Karak at Esha Vela time but when reached near the place of occurrence, Awal Khan who was driving the motorcycle stopped the motorcycle and went some distance to answer the call of nature. The complainant further reported that in the meantime indiscriminate firing took place and after some time he noticed his brother Awal Khan lying murdered in a pool of blood while Ms: Gul Samara was lying murdered inside her house. The complainant charged unknown persons for the occurrence and the present case was registered. During the course of

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investigation, the accused facing trial and absconding co-accused Zia ur Rehman were found to have committed the present crime.

2) After the completion of investigation, Challan was put in court for trial against accused Muhammad Sabir whereas Khurshheed Alam and Zia ur Rehman by then were absconding who were proceeded against u/s 512 Cr.P.C per statement of Mir Sahib D.F.C. However, after the arrest of accused Khurshheed Alam, supplementary challan was submitted against him. Both the accused were summoned and appeared in custody. Charge was framed against them, to which they pleaded not guilty and claimed trial. Thereafter, PWs were summoned, out of which 15 witnesses appeared and recorded their statements as:

3) Muhammad Anees No.375 HC appeared in the witness box as PW-1 who deposed that he is marginal witness to recovery memo which is EX. PC vide which I.O in his presence collected blood stained earth from the place of deceased Gul Samaro and sealed it into parcel and that the I.O also recovered blood stained earth from place of deceased Awal Khan and sealed it into parcel. He is also marginal witness to recovery memo EX.PC/1 vide which the I.O in his presence collected 19 empties of 7.62 bore lying scattered from the place of accused which were giving fresh smell and the I.O took the aforesaid empties into his possession and sealed them into parcel. The recovery memos are correct and correctly bear his signatures.

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4) Doctor Gul Sannat Shah appeared in the witness box as Pw-2 who deposed that on 05.11.2010 at 11.50 p.m, he had conducted the P.M examination on the dead body of deceased Awal Khan aged about 45/46 years son of Mir Sahib Shah resident of Topi Kalla and found the following on his person:-

External

Healthy body with no rigor mortis. Qamees, Banyan, Shalwar with blood stained and corresponding holes handed over to Police.

Wounds.

Stamp: RECEIVED
Signature: [Signature]
Date: 20.7.12

Handwritten: A.T.C.
Signature: [Signature]

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1. 1/2" x 5" graze wound on the left side abdomen.
2. 1/4" x 1/4" F.A.I entry wound left side back of chest making 1/2" x 1/2" F.A.I exit wound on right front of chest.
3. 1/4" x 1/4" F.A.I entry wound on left buttock making 1/2" x 1/2" F.A.I exit wound on right side abdomen. (Direction is front below upwards).
4. 1/4" x 1/4" F.A.I entry wound on back of left side chest making exit 1/2" x 1/2" F.A.I on right shoulder joint.
5. 1/4" x 1/4" F.A.I entry wound on left side chest on back making exit 1/2" x 1/2" F.A.I exit wound on top of right shoulder.
6. 1/4" x 1/4" F.A.I entry wound on back of chest making 1/2" x 1/2" F.A.I exit wound on top of left shoulder again the same bullet making graze wound 2" x 10" on left side neck and face (Direction is from below upwards).
7. 1/4" x 1/4" F.A.I entry wound on back, right upper side making 1/2" x 1/2" F.A.I exit wound on left side chest.
8. 1/4" x 1/4" F.A.I entry wound on front right side chest making 1/2" x 1/2" exit wound on top of left shoulder joint.
9. 1/4" x 1/4" F.A.I entry wound on back of left side chest making 1/2" x 1/2" F.A.I exit wound on front of left side chest.

Internal

Abdomen

Walls, peritoneum, small and large intestines were injured. Stomach contained about 30 cc semi digested food.

Thorax.

Walls, ribs and cartilages, Plurae, right and left lungs, pericardium and heart and blood vessels were injured.

Muscles, bones, joints.

Left and right humerus bone and ribs were fractured.

Remarks.

In his opinion, the deceased has been die due to injury to vital organs heart, lungs and blood vessels leading to hemorrhage shock and death.

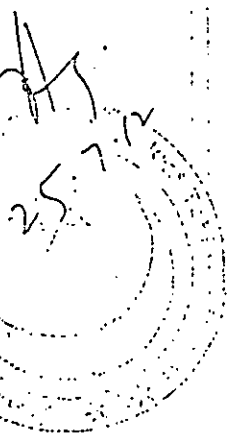
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Time between injury and death..... within 30 to 40 minutes.

Between death and P.M examination..... within 3 1/2 hours.

He deposed that the P.M report EX PM consisting of five sheets including pictorial is correct and correct and correctly bears his signature. The injury sheet and inquest report also bear his endorsements.

5) Muhammad Riaz Line Officer appeared in the witness box as PW-3 who deposed that on 04.12.2010 he along with other police officials recovered one kalashinkove bearing No.6036#1145123 of folding butt with fixed charger containing 20 rounds of the same bore from the mattresses box lying in the baithak of one, Sikandar Khan on the pointation of accused Muhammad Sabir which is weapon of offence of the case. He prepared recovery memo EX PW 3/1 in presence of marginal witnesses. After completion of investigation, he submitted complete challan in the case.

6) Shahid Zaman LHC No.581 appeared in the witness box as PW 4 who deposed that he is marginal witness to the recovery memo EX W 4/1 through which the I.O in his presence took into his possession the blood stained clothes of deceased Awal Khan consisting of shirt, shaiwar and waist (banyan) of white colour having corresponding cut marks which were sent by the Doctor and produced by constable Shah Farooq No.177 to the I.O. The I.O sealed the blood stained clothes of Awal Khan into parcel. Similarly, he is also marginal witness to the recovery memo EX PW 4/2 through which the I.O in his presence took into his possession the blood stained clothes of deceased Mst:Gul Samaro consisting of shirt of black flowery kur and shalwar having corresponding cut marks alongwith a phial containing swabs which were sent by the Doctor and produced by constable Mohammad Iqbal to the I.O. The I.O sealed the blood stained clothes of Gul Samaro into parcel and also the phial into a separate parcel. He is also marginal witness to the search memo EX PW 4/3 but neither the accused were available in their houses nor any incriminating articles could be recovered from their houses. He was also entrusted with warrants u/s 204 Cr.P.C issued against accused Zia Ullah, Khursheed and Sabir for execution. He searched for the accused in their village and in the surrounding area but they were not available/tracable,

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hence, he returned such warrants. Ex PW 4/1 to EX PW 4/6 un-executed with his report on its back which is EX PW 4/7 to EXPW 4/9. Similarly, he was also entrusted with proclamation notices u/s 87 Cr.P.C issued against the aforementioned accused in triplicate which are EX PW 4/10 to EX PW 4/12. He pasted one copy each on the notice board of the issuing Court, second copy each on the outer doors of the houses of accused and returned the third copy with his report EX PW 4/13 to EX PW 4/15 which are correct and correctly bear his signature.

7) Gul Faraz Khan SI entered the witness box as PW 5 who deposed that he partially investigated the present case. The accused facing trial during course of investigation led the police party to the place of occurrence and pointed out the place of occurrence by making discloser that he committed the murder of deceased in said place. He prepared the pointation memo to this effect which is EX PW 5/1. He also made addition with red ink in the syc plan already prepared by Mr Shah Jehan SI, at discloser and pointation by the accused facing trial. He recorded the statements of the PWS u/s 157 Cr.P.C.

8) Lady Doctor Nabeela W/M/O DHO Hospital Karak appeared in the witness box as PW 6 who deposed that on 24.11.2010 at 2 am, I had conducted the P.M examination on the dead body of deceased Mrs. Gul Samaro aged about 35 years wife of Ghulam Sarwar and found the following on his person:-

External

Middle aged lady. Rigor mortis not fully developed.

Wounds.

Entry wound:- 2 cm wound on left side just below the left axilla. Burning positive.

Exit wound:- 1 1/2" wound on back slightly to the left of midline at the level of T-11.

Entry wound:- 1.5 cm wound on right hand. Burning positive.

ATTENDED

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Shahwar Khan

(5)

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Exit wound:- 2" wound on abdomen below the xiphisternum. -
 Entry wound:- 1.5 cm on right upper thigh laterally.
 Exit:- 2" wound on mid of right buttock.
 1" entry wound on left wrist joint ulnar side.
 2 1/2" exit wound on left wrist joint radial side.
 Small portion of tip of index finger was absent (lateral border)
 Small burn marks on upper chest and face.

Internal

Abdomen

Walls, peritoneum, diaphragm, stomach, small and large intestines, right kidney were injured. OS closed. C.M. Tubular. Vaginal swab taken.

Thorax.

Walls, ribs and cartilages (left) Fracture (left), left lungs, pericardium and blood vessels were injured.

Muscles, bones, joints.

Left wrist joint and left humerus were fractured.

Remarks.

The deceased received injury on vital organs and major blood vessels. She died of haemorrhage shock.

Time between injury and death..... 03 to 03 minutes.

Between death and P.M examination..... 04 to 05 hours.

The P.M report EX PM consisting of five sheets including pictorial is correct and correctly bears her signature. The injury sheet also bears her endorsement.

9) Wilyat Khan SI entered the witness box as PW-7 who deposed that during the days occurrence, he was posted at Police Station Takht-e-

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Reader / PW-7

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Nasrati. On 5.12.2010 he was on patrol duty and complainant Waheedullah made a report to him near Rafimat Salam petrol pump about the present occurrence. He took down the report of complainant in shape of Murasilla EXPA. He read over the contents of report to complainant who after admitting it to be correct then signed the same as a token of its correctness. He prepared the injury sheet and inquest report of deceased Gul Samaro EXPW7/1 and EXPW7/2 respectively. He also prepared the injury sheet and inquest report of deceased Awal Khan EX PW7/2 and EX PW7/4 respectively. He then sent the dead bodies of deceased to Civil hospital Takht-e-Nasrati for PM examination, sent the Murasilla to Police Station for registration of the case. He also took into his possession a motorcycle Yamaha near the place of the occurrence and also recovered a police card in the name of Awal Khan deceased, one NIC in the name of Bostan Khan, one Mobile Nokia having sim No. 03319802661 from the pocket of deceased Awal Khan and prepared the recovery memo EXPW7/5 to this effect. Rest of investigation of the case was conducted by KBI Staff.

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10) Shah Farooq constable entered the witness box as PW-8 who deposed that during those days he was attached to Police Station Takht-e-Nasrati. He had escorted the dead body of deceased Awal Khan from the spot to Civil Hospital Takht-e-Nasrati. None interfered with the dead body. After the P.M examination, the Doctor handed over to him the blood stained garments of deceased consisting of Qamees, Shalwar and Banyan having corresponding cut marks which he delivered to the I.O on the spot.

11) Muhammad Farid HC No.477 appeared in the witness box as PW-9 who deposed that accused Mohammad Sabir in his presence on 4.12.2010 made disclosure to the I.O about the occurrence and led the Police party to the place of occurrence and on his pointation, the I.O made addition in the site plan already prepared with red ink and thereafter, the I.O prepared the pointation memo EX PW-5/1 which correctly bears his signature as marginal witness. The accused Mohammad Sabir during the course of investigation disclosed to the I.O that after the occurrence, he concealed the Kalashinkovè, the crime weapon in the house of his aunt

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 For the Officer in Charge

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and on the disclosure of the accused, the accused led the Police party to the house of his aunt in village Mosakan, entered the baithak of Sikandar Khan, the husband of his aunt and recovered the Kalashinkove folding butt alongwith fitted magazine containing 20 rounds of 7.62 mm bore from the box. The I.O took the Kalashinkove alongwith the aforesaid ammunition into his possession and prepared the original recovery memo in a case registered u/s 13 A.O against accused Mohammad Sabir and the photo copy of the said recovery memo is EX PW 3/1. The Kalashinkove is P-1 whereas 20 rounds are P-2.

12) Mir Shah Jehan SI appeared in the witness box as PW-10 who deposed that after the registration of the case, the copy of FIR was entrusted to him for the purpose of investigation. He proceeded to the spot, but since, it was late in the night and therefore, he postponed the spot inspection. However, Wilayat Khan ASHO was present on the spot and handed him over recovery memo through which the motorcycle, Nokia Mobile set alongwith Sim was taken into possession by him in presence of marginal witnesses. He took the said recovery memo into his possession and he recorded the statements of marginal witnesses on that night i.e 5.11.2011. On the following day i.e 6.11.2011, he again visited the spot and prepared the site plan EX PB at the instance and pointation of complainant. The same is correct with all its foot notes and drawing thereon. During spot inspection, he picked up blood stained earth from the places of deceased Mst:Gul Samaro and Awal Khan and prepared recovery memo Ex PC, in presence of marginal witnesses. Similarly, he also recovered and took into his possession 19 empties freshly discharged from the places of accused through recovery memo EX PC/1 in presence of marginal witnesses. He was present on the spot when constable Muhammad Iqbal constable 192 produced before the blood stained garments of deceased Gul Samaro which he took into his possession through recovery memo EX PW 4/2, in presence of marginal witnesses. Similarly, constable Shah Farooq constable produced before the blood stained garments of deceased Awal Khan which he took into his possession through recovery memo EX PW 4/1, in presence of marginal witnesses. He recorded statements of PWs u/s 161 Cr.P.C. He sent the blood stained articles to FSL for analysis

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and the result received thereof is EX PZ which is in positive. Similarly, he also sent the empties recovered from the spot to the Arms Expert and the result received thereof is placed in connected file u/s 13 A.O. During the course of investigation, he nominated accused Zia ur Rehman son of Gule Mula r/o Ahmad Abad, Muhammad Khurshid son of Hassan Khan resident of Zeri Wala and Muhammad Sabir son of Sher Daraz resident of Zeri Wala for the commission of offence. Since, the accused were absconding, therefore, he initiated proceedings u/s 204/87 Cr.P.C against them through his applications EX PW 10/1 and EX PW 10/2 respectively. On 29.11.2010, he formally arrested accused Muhammad Sabir who obtained ad-interim bail from this Hon'ble Court and issued his card of arrest which is on file as EX PW 10/3. After the pre-arrest bail petition of accused Muhammad Sabir was turned down, he again issued his card of arrest which is on file as EX PW 10/4. He produced him before the court for obtaining his police custody through his application EX PW 10/5 and he was granted two days Police custody. On 16.8.2011, after the arrest of accused Muhammad Khurshid by SHO, he was handed over to him for the purpose of interrogation. He produced him before the Magistrate for obtaining his police custody through his application and two days police custody was granted in favour of the accused. He interrogated the accused and during the course of interrogation, the accused confessed his guilt before me and led the police party to the place of occurrence where he pointed out the spot. He prepared the pointation memo to this effect which is on file as EXPW 10/6. He also recorded the statements of marginal witnesses of the pointation memo. Thereafter, he produced the accused Muhammad Khurshid through his application EX PW 10/7 before the Magistrate for recording his confessional statement but the accused did not confess his guilt before the Magistrate and the accused was remanded to judicial lock up. On 23/1/2011, he also recorded the supplementary statement of Wahidullah and also got recorded his statement u/s 164 Cr.P.C in the court of Illaqa Magistrate through application Ex PW 10/8. After completion of investigation, he handed over the case file to SI for submission of complete challan.

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Khalid

BYP

13) Wahid ur Rehman appeared in the witness box as PW-11 who had identified the dead body of deceased Awal Khan before the Police in the Police Station.

14) Nadir Munir appeared in the witness box as PW-12 who deposed that he had correctly identified the dead body of deceased Mst: Gul Samara before the Police as well as before the lady Doctor being his co-villager. On 18.8.2011, he along with Ravidulah were present nearby the spot of the present occurrence when the local Police came there in a vehicle. The accused Khursheed Alam pointed out the spot to the I.O. In this respect, the I.O prepared pointation memo EX PW 10/6 to which he is marginal witness. The pointation memo is correct and correctly bears his signature.

15) Wahidullah, the complainant appeared as PW-13 in the witness box and deposed that Stated that on 08.11.2010, he alongwith Awal Khan (deceased) were on their way from Nank to their village on motorcycle but when reached the place of occurrence i.e Zari Wala, accused Sabir, Khursheed and Zia ur Rehman were present there. They signalled them to stop and deborced his brother Awal Khan with the assertion that they wanted to murder someone with a bad named female. While this the accused started firing as a result of which, his brother got hit and died on the spot while a female by the name of Gul Samara when was opening the door of her house, was also and as a result of which she too was hit and died on the spot. Thereafter, the accused commanded at him that he would also be murdered if he reported the matter against them. Thereafter, he went to Indus High way near Ahmad Salam Petrol Pump and contacted the Police on mobile phone. After that the Police arrived there and he reported the matter to Wilayat Khan SHO there at Rehmat Salam Petrol Pump who reduced his report into writing, which is correct and correctly bears his signature. Then from Rehmat Salam Petrol Pump, the police proceeded to the place of occurrence while he went to Panch Sheri Chowk and arranged a rickshaw and then came to Police Station Takht-e-Nasrati. The dead body were also brought by the Police to the Police Station. My brother's funeral was shifted to Civil Hospital Takht-e-Nasrati while deceased Gul Samara was taken to Hospital at Karak. He

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pointed out the spot to the Police on the following morning. Motive for the offence was that his brother was done to death due to his bad relations with Mst:Gul Samaro. Later-on, he also got recorded his statement u/s 161 Cr.P.C thereby charging the accused for the commission of offence.

16) Haroon Gul constable appeared in the witness box as PW-14 who deposed that in his presence, Wilayat Khan ASHO, during the spot inspection, took into his possession one motorcycle Yamaha Model 2009 (Applied For) from near the spot. Similarly, he also recovered one Official Identity Card in the name of deceased Awal Khan, one NIC in the name of Bostan son of Gulistan resident of Chorzandi, one mobile phone having Sim No.03319802661 from the pocket of deceased. The I.O prepared recovery memo to this effect which is EX PW 7/5. The same is correct and correctly bears his signature. The motorcycle is P-1, mobile phone alongwith Sim is P-2.

17) Mohammad Iqbal constable no 4461 appeared as PW 15 and deposed that he has escorted the dead body of Mst Gul Samaro from police station Takht-e-nasrati to hospital at Karakana and after her post mortem the lady doctor handed over to him the PM documents and garments of the deceased which he delivered to the investigation officer in the police station.

18) Where after, the prosecution closed the prosecution evidence being complete. Thereafter the statement of accused U/S 342 Cr.PC was recorded, but the accused neither produced evidence in defence nor wished to be examined on oath U/S 340 (2) Cr.PC.

19) Arguments heard and record perused.

20) From the arguments and record available on file, it reveals that in the Murasilla EXPA the time of occurrence has been shown as 20:10 hours where as the report was lodged at 21:30 hours and as such there is delay of one hour and twenty minutes in lodging the report despite the fact that the distance between the place of occurrence and Rehmat salara petrol pump where the complainant lodged the report is one furlong as admitted by the IO I Mir Shah Jehan PW10 at peggy way his cross examination and

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such distance can be covered at the most at 10 minutes, yet lodging the report with delay of more than a hour have increased the chances of pre-consultation and deliberations in nominating the accused besides the complainant has not explained the said delay in lodging the report.

21) Admittedly the occurrence was committed in the dark night and the site plan EXPB is showing no source of light yet the identification of accused by the complainant at the time of occurrence attracts doubts to the case of the prosecution. The complainant in his initial report has charged unknown persons for the occurrence and despite the fact that the accused Mohammad Sabir as per his card of arrest EXPW 10/3, was arrested by the local police themselves on 29-11-2011 i.e. after 24 days of the occurrence, yet the complainant has not charged him. The complainant has for the first time charged the accused via his statement under section 164 Cr.P.C on 24-08-2011 i.e. after more than nine month of the occurrence. The complainant in his statement under section 164 Cr.P.C has explained that since the accused have threatened him of murder therefore due to fear he kept mum for such a long period but the same is not a very good explanation of delay in nominating the accused as stated earlier the accused Sabir was in police custody after some days of the occurrence, yet the complainant was unable in nominating the accused for a period of more than nine months.

22) However the brief look to the initial report/ murasilla EXPA, statement of the complainant recorded under section 164 Cr.P.C and the statement of the complainant recorded in the trial as PW 13 would reveal that the same contain contradictions in between and are not supporting each other towards the conviction of the accused facing trial. In the statement under section 164 Cr.P.C the complainant alleged the accused stopped them and disclosed that the sister of co accused Khursheed has been defamed therefore they want to kill her but for the said purpose they need a man to be killed with her and accordingly they fired upon his brother. This deposition is absolutely beyond the understandings of the prudent mind for the reason if the sister of the co-accused Khursheed was defamed and the accused thereby decided to kill her then there was no need to find a

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man for the said purpose in order to further create an enmity for themselves and the said work could be easily done inside their own house without there being any evidence of the same besides if once the accused decided to done away their sister with a man like Awal Khan then there was no need to leave alive the only eye witness Wahidullah i.e. the complainant in order to create an evidence against themselves. In murasilla the complainant has deposed that he along with his brother were going towards their house after Ishtara vela but as PW13 he deposed in cross examination that it was sham vela. Further in murasilla the complainant deposed that his brother stopped the motor cycle and went little ahead to answer the call of nature i.e. the complainant was waiting with the motor cycle but the site plan EXPB would reveal that the motor cycle has been shown at point 3-A situated adjacent to point no 2 where the dead body of deceased Awal Khan was found. It means that the deceased went to the place of occurrence on the motor cycle all alone and after firing at the deceased both the deceased and motor cycle were found near to each other. The presence of the complainant at the spot at the relevant time of occurrence by such deposition also become doubtful as had the complainant was present with motor cycle at the spot then he would not have left the motor cycle at the spot and would have took the same for furnishing information to the local police. Moreover in the murasilla the complainant deposed that at the time of firing the deceased was not on motorcycle as he was busy in answering the call of nature but in his statement under section 164 Cr.P.C he deposed that they were on motor cycle when they were stopped by the accused and then accused made firing at the deceased. Meaning thereby that the murder of deceased was committed on the motor cycle but no blood was found on the motor cycle which negates the version of the complainant adopted in his statement recorded under section 164 Cr.P.C. Moreover as PW13 the complainant once again jumped towards opposite direction by alleging that the accused deborded the deceased Awal Khan from the motor cycle and thereafter killed him. The said contradictions in the statements of the complainant has by no means provided any help to the complainant and rather the same have helped the accused facing trial in creation of

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sufficient doubts towards their alleged act of committing the murders of deceased.

23) The complainant as PW13 with regard to deceased Mst. Gul Samaro deposed that by the firing of accused she got hit inside her house when she was opening the door of her house. When the said statement is confronted with the site plan EXPB then it would reveal that the dead body of Mst. Gul Samaro was found at point no 1, which point is situated at a distance of 12 paces from point no 4 assigned to the accused Mohammad Sabir where from he allegedly fired at the deceased Mst. Gul Samaro but the post mortem report of deceased Mst. Gul Samaro EXPM would reveal that burning signs were found around entry wound no 1 and 2 which means that she was shot from a very close range and thus it negates the version of the complainant that she was shot from 12 paces.

24) With regard to recovery of 19 empties of 7.62 bore from the spot vide recovery memo EXPC/1 and kalashinkove being the weapon of offence at the pointation of accused Mohammad Sabir via recovery memo EXPW 3/1 is concerned in this regard it has to be noted that though its marginal witnesses Mohammad Anees Pw1, and Farid Pw9 besides the IO Mir Shahjehan PW10 supported the said recoveries via their evidence but when the recovered empties and kalashinkoves were sent to the FSL then via their report EXPZ they reported that only seven empties out of nineteen have been fired from the recovered kalashinkove. The PM reports of deceased Awal Khan and Mst. Gul Samaro would reveal that both have 08 and 04 entry wounds by fire arm on their bodies and it do not came to the light as to where the other empties which have been used in the commission of offence have gone. It is also note worthy that the occurrence was committed on 0-11-2010 whereas the 19 empties were recovered on the following day of occurrence on 06-11-2010 besides the kalashinkove was recovered on 01-12-2010 but according to FSL report the case property was received by the FSL on 11.01.2011 i.e. after 37 days of its recovery where as the empties were sent after more than two months of its recovery to the FSL. The report of the FSL shows that the Kalashinkove was having no fixed charger whereas the recovery memo EXPw3/1 would

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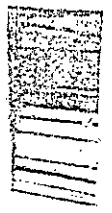
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show that the recovered kalshinkove was having affixed charger and this fact was also noted by the present court while recording the statement of the marginal witness of the recovery memo Mohammad Fareed PW9. So it was not clear as to where was the case property lying during the intervening period when the same was allegedly recovered till its sending to FSL and there is no proof that the same was lying safe without being tampered as the delay of 37 days in sending the case property to the FSL has created a doubt and it is not certain that the FSL report is regarding the same case property allegedly recovered at the pointation of the accused facing trial or other wise because the recovery memo EXPW3/1 would reveal that neither the recovered articles have been sealed at the spot as there is no number of the parcel have been mentioned therein. The perusal of the FSL report would reveal that the same bars no emboss mark, hence the same cannot be relied upon at all as an important piece of evidence against the accused facing trial. Another important factor of the case which needs attention is that as per version of the prosecution the recovered kalashinkove was recovered at the pointation of accused Mohammad Sabir from the house of one, Sikandar but the said Sikandar was neither made an accused nor witness to the recovery memo which has fallen the case in to the shadow of further doubts the benefit of which must be extended in favour of accused.

25-7-12

25) With regard to motive the complainant alleged that motive for the occurrence was the ~~illicit~~ ^{illicit} relationship between the two deceased but no independent evidence in this regard was produce to support this version of the complainant. Hence the motive alleged would be deemed not established.

26) So the net shell of the above discussion is that the prosecution has failed to prove their case against the accused facing trial beyond any shadow of doubts, the failure on the part of prosecution and complainant to marshal their troops in a right way resulted in creation of sufficient dents in the version of complainant/prosecution. The case of the prosecution is rather full of contradictions, doubts and inconsistence evidence, the benefit of which must be extended in favour of accused. Therefore, the accused

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facing trial Mohammad Sabir Son Of Sheer daraz and Mohammad Khursheed son of Hassan Khan in the light of above stated facts are hereby acquitted of the charges levelled against them via FIR in question. The accused are in custody he be released forthwith, if not required in any other case. However prima facie case exists against absconding accused Zia ur rehman who is here by declared as proclaimed offender, perpetual warrant of arrest be issued against him and the DPO Karak is directed to enlist the name of the said accused in the register of Proclaimed offenders. Case property be kept intact till the arrest of absconding accused.

27) A copy of this order be placed on police/judicial file, while file of this court be consigned to the record room after its completion and compilation.

Announced

25-07-2012

(ASGHAR SHAH KHILJI)
 ADDITIONAL SESSIONS JUDGE,
 KARAKAT TAKHT-E-NASRATI.

CERTIFICATE

25-7-12

Certified that this judgment consist of sixteen (16) pages, and each page has been read, checked, corrected and signed by me where necessary.

25-07-2012

(ASGHAR SHAH KHILJI)
 ADDITIONAL SESSIONS JUDGE,
 KARAKAT TAKHT-E-NASRATI.

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 CIVIL, TAKHT-E-NASRATI (KARAKAT)

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 Total Fee 32
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C-48

Order- 38
03.12.2012

APP for State present. Accused Khurshid Alam and Faiz Ullah in police custody present. Accused Asmat Ullah and Akram Raza on bail present. Attendance of the accused Qasim has been dispensed with as he has been placed in column No.2 of the final report.

By way of present measure, the accused facing trial/petitioners have prayed for their acquittal under section 349-A Cr.P.C. Notice of the application has already been given to the state.

Occasion for lodging the F.I.R by the complainant against the accused per its contents was that on 10-04-2011 at 8.30 am, complainant Muhammad Suleman reported the occurrence in police station, Karak, that on the previous night, he along with his wife, had gone to the house of his brother-in-law Badshah Zada. At about 21.30 hours, when they returned home, his sons Muhammad Awais and Muhammad Shoalb told him that three persons scaled the wall of their house and entered therein, who also threatened them of murder and ordered them to keep mum. They entered in the room and took away the valuable articles. On search, they found one 12 bore rifle, 05 tolas of gold, Rs. 20,000/- cash and one Nokia Mobile stolen. The complainant charged three unknown accused for the commission of the crime in his report, on which F.I.R was registered.

Investigation ensued as consequence of registration of the crime report. Accused Khurshid Alam, Faiz Ullah, and Akram Raza were found guilty during the investigation while accused Qasim and Asmat

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Ullah were placed in column No.2 of challan. A report under section 173 Cr.P.C was sent to the court requiring the accused to face trial. After the attendance of the accused, provisions of section 241-A Cr.P.C were complied with through delivering to them the copies of statements and documents. By pleading not guilty to indictment, accused facing trial opted to stand this trial.

Prosecution in order to establish its case against the accused facing trial, till this time, produced and examined complainant Muhammad Suleman as PW-1 only. PW-1 in his statement gave complete details regarding the offence committed with him by the accused facing trial.

Thereafter, accused facing trial/petitioners filed instant application under section 249-A Cr.P.C for their acquittal from the charges levelled against them.

I have heard arguments of the learned counsel for the accused/petitioners, APP for the state and has had the opportunity to examine the record with considerable degree of care.

Keeping in view the all significant statement of Muhammad Suleman, the complainant i.e. the PW-1, this court does not feel it essential to make an in-depth discussion of the case. Briefly, as per the record, the accused facing trial were found involved in theft of one shot gun, 05 tolas of gold ornaments, Rs. 20,000/- cash and one Nokia 1200 mobile phone from the house of complainant, hence, the instant F.I.R.

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As fore-mentioned statement of the PW-1 has such an overwhelming effect that this court does not feel it expedient to discuss everything. It alone damages the prosecution case to an extent where-after conviction of the accused facing trial become improbable. I may refer to some parts of his statement forthcoming from the cross-examination he was subjected to. For example it is admitted by the said PW-1 that the occurrence has taken place at night time. PW-1 also admitted it correct that the occurrence was not witnessed by him nor he knew the accused prior to the occurrence. PW-1 also admitted it correct that nothing has been recovered from the accused in his presence. PW-1 also admitted it correct that he charged the accused for the commission of the offence at the instance of the police after their arrest. PW-1 also admitted it correct that accused fully satisfied him regarding their innocence through the elders of locality. PW-1 further stated that he has also patched up the matter with accused Asmat Ullah and Qasim whose names, later on, were placed in column No. 2 of the challan. PW-1 further stated that he has got no objection if the accused facing this trial are acquitted from the charges levelled against them. Perusal of the case file further throws up that accused facing trial have not been charged in the F.I.R. Nothing has been recovered from the possession of the accused facing trial. No identification parade what so ever of the accused facing trial has been conducted, so the identification of the accused is still a question mark. It is also important to mention here that during the investigation of the case, complainant Muhammad Suleman appeared before the court and recorded his statement under section 164 Cr.P.C wherein he has stated that though initially he has lodged the report for the theft of Rs.20,000/-

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and 05 tolas of gold but now the woman folk in the house told him that they have kept Rs.20,000/- and 05 tolas of gold in safe custody and that his report is only to the extent of theft of one 12 bore shot gun and Nokia 1200 mobile phone. Lastly, the complainant do not charge the accused as evident from his statement as PW-1.

Keeping in view the fore-deposition, this court deems further proceedings in the case as like sheer wastage of time because the ultimate result of the case even if the entire evidence is recorded which is not fore-seen in the near future would be striking down the charges and acquittal of the accused facing trial. As such while accepting the application in hand, the accused facing this trial are hereby acquitted in the instant case from the charges, so levelled against them. They are on bail as such their sureties stand discharged from their liabilities. Case property, if any, be dealt with as per law.

ANNOUNCED:-
KARAK.
Dated; 03.12.2012

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Asif Rashid,
Senior Civil Judge/Judicial
Magistrate, Karak.

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IN THE COURT OF ABDUL BASIT, JUDICIAL MAGISTRATE
CLASS-I, KARAK

Order--44 SPP for state and accused Akram Raza on bail present.
27.11.2012 Accused Faizullah & Khursheed Alam produced from jail in custody.

Through this order I shall dispose of application filed by accused named above under section 249-A CrPC for their acquittal in case FIR No. 89 dated: 14.04.2011 registered under Sections 380 and 457 PPC pertaining to Police Station Karak.

Arguments heard and record perused.

In brief facts of FIR speaks that Naseeb Gul, the complainant, reported that on 04.04.2011 he went to offer Isha prayer, whereas, his wife was at neighbor's house that during this span of time unknown accused have break opened the locks of his room, as well as those of two boxes laying inside it, wherefrom, they have stolen away 8 tolas gold, 12 sewed ladies suits and Pak currency valuing Rs. 17,000/- Complainant also reported that he was searching for the real culprits and now on being convinced and satisfied came to know that said theft was committed by his nephew Faizullah, hence, FIR.

Challan received and notices issued to accused/petitioners, who attended court and provision of section 241-A CrPC complied with, who were later on charge sheeted under section 380 and 457 PPC by my learned predecessor, to which accused/petitioners did not plead their guilt and claimed trial. Resultantly, prosecution was directed to adduce its evidence. Consequently, prosecution recorded the statements of all witnesses excluding the learned judicial officer, who recorded the confessional statement of accused/petitioner Faizullah as accused/petitioners named above filed application for their acquittal as case is allegedly not proved from available record.

In the light of evidence available on file, this is concluded that the actual complainant Naseeb Gul has died as evident from statement of Sher Wali, however, he is represented by his wife Mst. Riaz Bibi, who in her statement recorded as PW4 though correctly mentioned what has been stolen from them, however, she added that when her husband, the complainant, returned from Isha prayer he has seen those three persons, who have committed the theft. Whereas, contents of FIR are not only silent about this fact but also speaks that some unknown accused have committed the alleged theft from his house and he is searching/investigating about those,

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IN THE COURT OF ABDUL BASIT, JUDICIAL MAGISTRATE
CLASS-1, KARAK

Contd: 44
27.11.2012

which is a glaring contradiction. Besides this Mst. Riaz Bibi in very clear words deposed that they have inimical relation with accused Faizullah, whereas, they do not charge other accused except accused Faizullah leading to inference that probably complainant has intentionally involved accused Faizullah in FIR in order to satisfy their nerves, whereas, other two accused were charged on the basis of statement of accused Faizullah. In addition to this, wife of complainant in her statement contended that not a single stolen article has been recovered so far, whereas, recovery memo prepared on pointation of accused Faizullah, Ex-PW 1/5, provides that Rs. 4,000/-, P-5, camera, P-6, and pair of silver anklets, P-7, and Rs. 5,000/- have been recovered from possession of accused Khurshheed Aalim, which avails that Mst. Riaz Bibi, PW 4, is deposing false, thus, her statement cannot be considered as true and genuine piece of evidence.

Prosecution also adduced the evidence of Lal Shireen as PW-5, in whose presence accused Faizullah has not only made pointation but recovery sketch, Ex-PW 4/2, was also prepared in his presence. This witness deposed that accused Faizullah has handed over Rs. 11,000/- to local police in his presence, nevertheless, recovery memo, Ex-PW 1/5, suggests that only Rs. 4,000/- have been recovered on pointation of accused Faizullah. In similar manner, this witness deposed that complainant has lodged the FIR one day after the occurrence took place, whereas, wife of complainant alleged registration of FIR on the very day, whereas, contents of FIR clearly provides that occurrence took place on 04.04.2011 and FIR was registered on 14.04.2011, meaning thereby, after ten days of the occurrence, which are wide contradictions in statements of PW-5, PW-6 and contents of FIR and puts serious dents in prosecution stance.

This is important to note that complainant has lodged FIR after ten days of the occurrence and only against Faizullah and that too on his being full satisfaction and contentment that the alleged offence is committed by accused Faizullah, who has stolen away Rs. 17,000/-, 8 tola gold ornaments and 12 ladies suits, however, when accused Faizullah in his statement recorded before local police on

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IN THE COURT OF ABDUL BASIT, JUDICIAL MAGISTRATE
CLASS-I KARAK

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Contd: 44 20.06.2012 deposed that there were two other accused namely
27.11.2012 Khursheed Aalim and Akram Raza accompanying him at the time of
commission of offence, who have jointly stolen Rs. 11,000/-, nose pin,
pair of silver anklets, silver bangle, binocular, camera, locket,
necklace, small size stick with cock head handle and a wallet having
identity card (all valuing Rs. 45,000/-) from complainant's house,
then, the complainant appeared before local police and amended his
statement on 20.06.2012 and stated what accused Faizullah narrated
in his statement in order to bring his case in line with the version of
accused so as to get success in his case, which avails that either the
report lodged by complainant is not true or what has been stated on
20.06.2012 is false.

There is considerable delay of 10 days in lodging of FIR,
whereas, complainant has not disclosed his source of information
and satisfaction, which brings case of complainant to weak footings.
PW-1 in his cross-examination deposed that recovery was affected
on pointation of accused Faizullah, whereas, PW-4 deposed that
accused Faizullah has given money to local police himself. Abdul
Lateef, PW-5, in his statement admitted that during investigation
nothing has been recovered from accused Akram Raza nor any proof
is bring on record against him. Besides this there is difference of
sketches prepared on pointation of accused Faizullah & Khursheed
Aalim since as per sketch, Ex-PW 4/2, the door of complainant's
house is shown at east side, whereas, as per sketch, Ex-PW 4/10,
entry of house is shown from two sides i.e. east and south. In like
manner, accused Faizullah has shown their entry in the house of
complainant by climbing the wall from southern side, whereas,
accused Khursheed Aalim shown to have climber from western side.
There is no ocular witness to occurrence. Recovery is not affected
from direct possession of accused Faizullah. Although local police
recovered Rs. 5,000/- from direct possession of accused Khursheed
Aalim after more than two months of the occurrence, therefore, this
recovery also seems to be doubtful since it is not possible that
person stealing money shall be carrying with him for more than two
months and will not spend it.

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IN THE COURT OF ABDUL BASIT, JUDICIAL MAGISTRATE CLASS-I, KARAK

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27.11.2012

There is no denial to fact that accused Faizullah has also made 'judicial confession' before court, however, he has retracted from said confession at the time of framing of charge, where, he refused to confess his guilt and claimed trial. Besides this, accused Faizullah in his confessional statement only mentioned that he has committed theft and received his share of Rs. 4,000/-, whereas, did not disclose anything about the rests of the articles, showing that such confession was made under pressure. therefore, said confession cannot be considered, therefore, for the above discussed reasons it is held that prosecution case is full of doubts and they have badly failed to prove it by producing cogent and reliable evidence on record, therefore, benefit of doubt is to be extended to accused/petitioners in the wake of settled law, hence, while allowing the application in hands, I hereby acquit all the accused/petitioners from the charges leveled against them under section 380/457 PPC. Sureties of accused Akram Raza are discharge from their liability. Case property so recovered be delivered to complainant party. Accused Faizullah and Khursheed Aalim are behind the bars, therefore, they be released forthwith provided not involved and arrested in any other case.

Case file be consigned to record room after its necessary completion.

Announced
27.11.2012

(Abdul Basit)
Judicial Magistrate-I, Karak

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19/12/2012

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ORDER

The appellant, ex: constable Khurshid Alam No. 253 of Karak district was posted at Police Post Bahader Khel absented himself from his lawful duty w.e.f 02.01.2010 vide DD No. 14 dated 02.01.2010 till the disposal of enquiry.

Therefore, the appellant was dealt with departmentally by the competent authority i.e DPO Karak, which resulted in his dismissal from service from the date of absence vide DPO Karak order O.B No. 335 dated 27.03.2010

Feeling aggrieved from the above impugned order he preferred the instant representation before the undersigned received on 21.01.2013, wherein he prayed for his re-instatement in service.

The appellant was called in Orderly Room held on 13.01.2013 and heard in person.

The appellant contended that he absented himself due to domestic problems and falsely implication in criminal cases by his opponents and prayed for re-instatement in service.

I have gone through the available record, which revealed that the appellant deliberately absented himself from lawful duty. The charge sheet was served at his home address through local Police. The mother of the appellant stated that his son (Appellant) had gone abroad for earning livelihood. Hence, the competent authority issued notice in daily newspaper "Mashriq" dated 26.02.2010, but he did not resume his duty. Record further revealed that the appellant remained involve in heinous crimes against persons. The appellant also failed basic recruit course at PTC Hangu.

In view of the above and available record the undersigned came to the conclusion that all codal formalities were fulfilled by the competent authority and seems no justification to interfere in the impugned order. Hence, the deliberate absence from duty of appellant was proved beyond any shadow of doubt. The representation being without any substance, bad in eyes of law as well as badly time barred is hereby **rejected** and the order passed by DPO Karak dated 27.03.2010 is **upheld**.

Announced
13.01.2013

A.T.C.
m.
Ghalla

(MOHAMMAD IMTIAZ SHAH)
PSP,QPM
Dy: Inspector General of Police,
Kohat Region, Kohat.

No. 1130-31 /EC Dated Kohat the 14/2 /2013

Copy to District Police Officer, Karak for information and necessary action w/r to his office Memo: No. 1394/EC dated 30.01.2013. Service record of the appellant is returned herewith.

2 Appellant.

(MOHAMMAD IMTIAZ SHAH)
PSP,QPM
Dy: Inspector General of Police
Kohat Region, Kohat.

Annexure - E (54)

ORDER.

This order is passed on the departmental proceedings initiated against Constable Khurshid Alam No.253, who absented himself from his lawful duty w.e 02.01.2010 till date with out any leave or permission. His pay was stopped, to this effect.

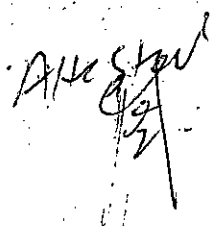
Inspector Noor Muhammad Co-Ordination Officer Karak was appointed Enquiry Officer to proceed against him departmentally. The Enquiry Officer has submitted his finding report placed on file, and then he was issued Final Show Cause Notice. He failed to submit reply and still absent, beside this a notice for resuming duty was issued in daily News paper "Mashriq" dated 26.02.2010, with the direction to report for duty within stipulated period but in-vain.

In view of the above it is evident from the entire proceedings that the accused Constable Khurshid Alam No.253 is not interested in resuming his official duty. Hence in accordance with the finding and other legal procedure adopted, he is dismissed from service from the date of absence. Kit etc be recovered from accused Constable.

OB No. 335
Dated. 27.03.2010


District Police Officer, Karak

Copy to all concerned.


Inspector legal
Karak

تاریخ 18 مارچ
پہنچا اور کارڈ جاری
ڈسٹرک پولیس آفیسر، کاراک

- ① 02-1-2010 Absent
- ② 27-03-2010 (02M-25Days) رخصتہ
- ③ 05-11-2010 (07Months & 25days) Break
- (4) -2011 (FIR #409 dt 5/11-2010
302
- (5) 11/9/2010 - اقرار دینا اور شیخ صاحب کو اطلاع دینا
- (6) 19-12-2012 (01year, 02Months & 22Days) جوبکٹا گیا
- (7) 15-01-2013 (26days) رخصتہ (26 days) شیخ صاحب کو اطلاع دینا
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To The Deputy Inspector General of Police,
Kohat Region Kohat

True copy

Subject: REPRESENTATION

(m)
Dharmendra

Respected Sir,

Appellant knock at the door of your good office by submitting the present representation for the revival and survival of the lost service with following lines:-

FACTS

1. That appellant belongs to poor family and was enrolled in Police in the year 2008. Appellant successfully qualified the basic course and was rendering services to the entire satisfaction of senior and superior officers.
2. That in the year 2009 appellant was posted at Police Station Khurram district Karak and father of appellant suffered from chronic disease and SHO of Police Station directed appellant to manage treatment of his father and departure report was recorded in the daily diary vide serial No. 26 dated 05.12, 2009 for CMH Kohat.
3. That appellant left the station and was managing treatment of his father and later on appellant was implicated in false criminal case and was detained in judicial lockup for long period. The trial court recorded acquittal order in the case. Therefore appellant approached Police Lines Karak for submitting arrival but was informed that appellant was dismissed from service vide order Book No. 335 dated 27.03.2010. Hence the present representation on the following grounds.

GROUND

- a. That the impugned order was passed in violation of the law and rules. Appellant was dismissed from service vide without committing any misconduct and negligence in duty. The alleged absence from duty was inevitable as appellant was managing treatment of his father and was later on implicated in false case and was behind the bar in judicial lockup.
- b. That petitioner belongs to poor family and father of petitioner died of that very disease. The expenses of treatment of father plus long trial of criminal case has forced appellant for hunger life. There revival of the service of appellant was necessary for sailing the boat of appellant and his family.

DA
21-1-2013

That the lower authority did not take into account the illness of appellant father and the absence of appellant due to incarceration in judicial lockup. Therefore the absence of appellant was not deliberate rather it was inevitable.

It is therefore requested the impugned orders may please be set aside and appellant may be reinstated in service with all consequential benefits.

Yours truly,

Khurshid Alam

(KHURSHID ALAM)

Ex- Constable No.253

Village Esot Killa Post office
Ahmed Abad, Tehsil Takht-e-Nasrati
District Karak

ORDER

The appellant, ex: constable Khurshid Alam No. 253 of Karak district was posted at Police Post Bahader Khel absented himself from his lawful duty w.e.f 02.01.2010 vide DD No. 14 dated 02.01.2010 till the disposal of enquiry.

Therefore, the appellant was dealt with departmentally by the competent authority i.e DPO Karak, which resulted in his dismissal from service from the date of absence vide DPO Karak order O.B No. 335 dated 27.03.2010

Feeling aggrieved from the above impugned order he preferred the instant representation before the undersigned received on 21.01.2013, wherein he prayed for his re-instatement in service.

The appellant was called in Orderly Room held on 13.01.2013 and heard in person.

The appellant contended that he absented himself due to domestic problems and falsely implication in criminal cases by his opponents and prayed for re-instatement in service.

I have gone through the available record, which revealed that the appellant deliberately absented himself from lawful duty. The charge sheet was served at his home address through local Police. The mother of the appellant stated that his son (Appellant) had gone abroad for earning livelihood. Hence, the competent authority issued notice in daily newspaper "**Mashriq**" dated 26.02.2010, but he did not resume his duty. Record further revealed that the appellant remained involve in heinous crimes against persons. The appellant also failed basic recruit course at PTC Hangu.

In view of the above and available record the undersigned came to the conclusion that all codal formalities were fulfilled by the competent authority and seems no justification to interfere in the impugned order. Hence, the deliberate absence from duty of appellant was proved beyond any shadow of doubt. The representation being without any substance, bad in eyes of law as well as badly time barred is hereby **rejected** and the order passed by DPO Karak dated 27.03.2010 is **upheld**.

Announced
13.01.2013

(MOHAMMAD IMTIAZ SHAH)
PSP, QPM

Dy: Inspector General of Police,
Kohat Region, Kohat.

No. 1130-31 /EC. Dated Kohat the 14/1 /2013

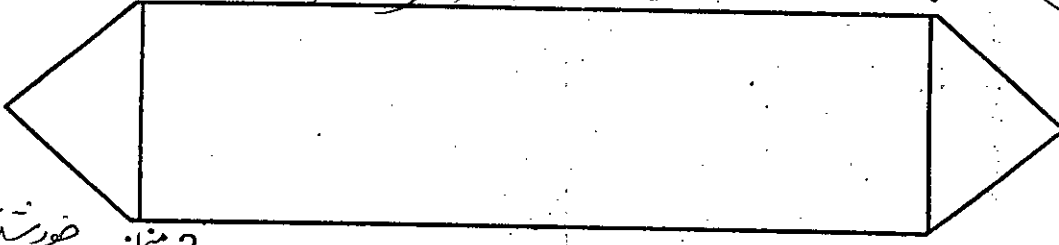
Copy to District Police Officer, Karak for information and necessary action w/r to his office Memo: No. 1394/EC dated 30.01.2013. Service record of the appellant is returned herewith.

2 Appellant.

(MOHAMMAD IMTIAZ SHAH)
PSP, QPM

Dy: Inspector General of Police
Kohat Region, Kohat.

بعدالت صاحب سروس سٹیٹو جیول جیسٹریٹو خواہ کے در



عالم ولد حسن اللہ
صاحب سروس سٹیٹو جیول جیسٹریٹو خواہ کے در
بنام

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے لئے مدد کیلئے شہر رشتہ خواہ اللہ وکلرٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فی جملہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم _____ ماہ _____ 20ء

گواہ _____

Accepted by _____
Mehamud Rafiq Chahar
advocate
Shahid

بمقام حضور شہ عالم
حضور شہ عالم