

20th Sept 2022

Counsel for the appellant present. Mr. Kabiruallah
Khattak, Addl: AG present.

Written reply not submitted. Learned AAG assured
that the written reply will be submitted on the next
date. To come up for written reply on 15.11.2022
before S.B at camp court Abbottabad.



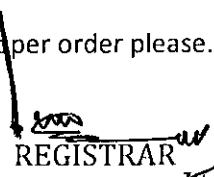


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 943/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/06/2022	<p>The appeal of Mr. Aqibat Shah resubmitted today by Mr. Muhammad Aslam Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	14-7-22	<p>This case is entrusted to touring Single Bench at A.Abad for preliminary hearing to be put there on <u>19-07-22</u> Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	19.07.2022	<p>Learned counsel for the appellant present. Preliminary arguments heard.</p> <p>Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments on 20.09.2022 before the S.B at Camp Court Abbottabad.</p> <p> (Salah-Ud-Din) Member (J) Camp Court Abbottabad</p>

Appellant Deposited
Security & Process Fee

26/7

To

The Registrar,
KPK Service Tribunal,
Peshawar.

Subject:- **RE-SUBMISSION OF APPEAL FILE OF AQIBAT SHAH
INSPECTOR NO.6/H APPELLANT AFTER COMPLTION AND
REMOVAL OF OBJECTIONS.**

Reference: Your letter No.1683/ST dated 13-06-2022.

The following objections were raised vide your letter referred to above have been removed and filed is resubmitted:

1. That despite enthusiastic efforts copy of first departmental appeal could not be found to have been retained by appellant as a personal record. Presently it could not be traced out.
2. That better copy of order 03-04-2018 has now been placed on this appeal file.
3. File is re-submitted please.



(Muhammad Aslam Tanoli)
Advocate High Court
District Courts Haripur


Dated: 23-06-2022

The appeal of Mr. Aqibat Shah sub Inspector no. 06/H presently police training college Hangu received today i.e. on 13.06.2022 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copy of first departmental appeal against the impugned order dated 03/4/2018 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of impugned order dated 03.4.2018 is illegible which may be replaced by legible/better one.

No. 1683/S.T,

Dt. 13/6 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Aslam Tanoli Adv.
High Court Haripur

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CHECK LIST

CASE TITLE: _____

V/S _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____

Signature: M. Aslam Tendi

Dated: 13/8/22

0333-5958997

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No..... 91/37/2022

Aqibat Shah Sub Inspector No. 06/H presently posted at Police Training College, Hungu **(Appellant)**

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. **(Respondents)**


SERVICE APPEAL

INDEX

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3.	Order dated 09-10-2018 of RPO	"B"	10
4.	Judgment/Decision dated 29-09-2021.	"C"	11-31
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7.	Revision petition	"F"	36-39
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9.	Wakalatnama		


Appellant

Through


(Mohammad Aslam Tanoli)
Advocate High Court
at Haripur

Dated: 13-06-2022

1

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....

Aqibat Shah Sub Inspector No. 06/H presently posted at Police Training College, Hungu**(Appellant)**

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. **(Respondents)**

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 03-04-2018 OF THE DPO HARIPUR WHEREBY APPELLANT HAD BEEN AWARDED MAJOR PUNISHMENT OF "REDUCTION IN RANK FROM SUB INSPECTOR TO ASI" AND ORDER DATED 09-10-2018 OF RPO HAZARA REGION ABBOTTABAD WHEREBY HIS DEPARMENTAL APPEAL WAS PARTIALLY ACCEPTED AND PUNISHMENT OF REDUCTION IN RANK WAS CONVERTED INTO REDUCTION IN PAY BY THREE YEARS AND ORDER DATED 31-01-2022 WHEREBY APPELLANT FILED APPEAL AFTER ACQUITTAL WAS FILED BY RPO HR ABBOTTABAD AND HIS REVISION PETITION DATED 17-03-2022 HAS BEEN FILED BY THE PROVINCIAL POLICE OFFICER/IGP KPK PESHAWAR VIDE ORDER DATD 18-05-2022.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL THE IMPUGNED ORDER DATED 03-04-2018, 09-10-2018 AND 31-01-2022 AND 18-05-2022 OF THE RESPONDENTS MAY KINDLY BE SET ASIDE AND APPELLANT BE RESTORED HIS 03 YEARS REDUCED PAY ON THE BASIS OF FRESH CAUSE OF ACTION I.E. HIS ACQUITTAL IN CRIMINAL CASE VIDE JUDGMENT/ORDER DATED 29-09-2021 WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir,

1. That appellant was inducted in police department on 01-10-1989. He was promoted as ASI on 08-04-2008 and confirmed as ASI on 08-04-2010. He was further promoted as Sub Inspector on 13-06-2014. For his great services the

appellant was also awarded with "QUID-E-AZAM MEDAL AWARD" by his police High-Ups.

2. That appellant while posted as SI (OII) P.S. Kotnajibullah was awarded the punishment of reduction in rank from Sub Inspector to ASI by the District Police Officer Haripur vide order dated 03-04-2018 on account of registration of a false and fabricated criminal case No.162 dated 15-02-2018 under section 376 PPC at Police Station Sera-e-Saleh against him. **(Copy of punishment order dated 03-04-2018 is attached as "A")**.
3. That appellant aggrieved of punishment order filed a departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad which was partially accepted and his punishment of reduction in rank was converted into reduction in pay by three years vide order dated 09-10-2018. **(Copy of the appellate order dated 09-10-2018 is attached as "B")**.
5. That as Honorable Additional Session Judge-I Special Court Haripur acquitted appellant vide order dated 29-09-2021 and charge due to which the appellant was reduced in rank from Sub Inspector to ASI had vanished away and fresh cause of action had accrued to the appellant for filing fresh appeal for restoration of his reduced pay. **(Order dated 29-09-2021 as "C")**.
6. That after obtaining acquittal order, the appellant filed departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad but misconceiving the grounds of the appeal the same was rejected vide order

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dated 14-07-2021 but appellant was not communicated. The appellant, therefore, requested for result of his appeal which had been passed vide order 31-01-2022 but copy of the same was not provided to appellant. However, on his specific written request an attested copy of the same was issued to him on 15-03-2022. **(Copies of appeal & order dated 31-01-2022 are attached as 'D & E').**

7. That there is no other charge against the appellant except this false and fabricated criminal case as mentioned above. That charge has been vanished away with the acquittal of appellant in said criminal case. Thus fresh cause of action has accrued to appellant to appeal against his penalty of reduction in pay.
9. That no proper departmental inquiry was conducted. Neither any evidence was recorded against him in his presence nor was he afforded a chance of cross-examination. Copy of enquiry report, if any, was also not given to appellant. No Show Cause Notice was issued to him. Even opportunity of personal hearing was not afforded to him and he was condemned unheard by the DPO Haripur.
10. That appellant has rendered more than 32 years service in the police department. He always performed his assigned duties with devotion, dedication and honesty and even he has been awarded with commendation certificates and cash rewards by his High-Ups for his tremendous services. He has meritorious service record.
11. That appellant aggrieved of order dated 31-01-2022

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(delivered on 15-03-2022) preferred a Revision Petition/Mercy Appeal dated 17-03-2022 before the Provincial Police Officer KPK Peshawar which has been rejected vide order dated 18-05-2022 without going through the contents and grounds of departmental Revision Petition/Mercy appeal and without giving any reasons. **(Copies of Revision/Mercy appeal and its rejection order dated 18-05-2022 are as Annexure "E&G").**

12. Hence instant service appeal on the following grounds:-

GROUND:

- A) That orders dated 03-04-2018, 09-10-2018, 31-01-2022 and order 18-05-2022 of the respondents are illegal, unlawful, against the facts, departmental rules & regulation, Police E&D Rules 1975 and passed in a cursory, whimsical and arbitrary manner; hence are liable to be set aside.
- B) That no proper departmental inquiry was conducted. Neither any evidence was recorded against him in his presence nor was he afforded a chance of cross-examination. Copy of enquiry report, if any, was also not given to appellant. No Show Cause Notice was issued to him. Even opportunity of personal hearing was not afforded to him and he was condemned unheard by the DPO Haripur.
- C) That the appellate authority has also failed to abide by the law and even did not take into consideration the grounds of appeal taken by appellant in his departmental appeal. Thus the impugned order of appellate authority is contrary to the Police E&D Rules 1975 read with section

24-A of General Clause Act 1897 and Article 10A of the Constitution of Islamic Republic of Pakistan 1973.

- D) That there is no other charge against the appellant except this false and fabricated criminal case as mentioned above. That charge has been vanished away with the acquittal of appellant in said criminal case vide court order dated 29-09-2021. Thus fresh cause of action has accrued to appellant to appeal against his penalty of awarded by respondents.
- D) That instant service appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain & adjudicate upon the lis.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant Service appeal order dated 03-04-2018, 09-10-2018, 31-01-2022 and 18-05-2022 of the respondents may graciously be set aside and his reduced 03 annual increments be restored with grant of all consequential service back benefits. Any other relief which this Honorable Tribunal deems fit and proper in circumstances of the case may also be granted.

Through:

Appellant

M. Aslam
(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated 13-06-2022

VERIFICATION

It is verified that the contents of instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed thereof.

Dated 13-06-2022

Appellant

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BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Aqibat Shah Sub Inspector No. 06/H presently posted at Police Training College, Hungu**(Appellant)**

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. **(Respondents)**

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever been filed in this Honourable Service Tribunal or any other court prior to the instant one.


APPELLANT

Dated: 13-06-2022

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BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Aqibat Shah Sub Inspector No. 06/H presently posted at Police Training College, Hungu **(Appellant)**

VERSUS

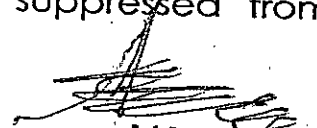
1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. **(Respondents)**

SERVICE APPEAL


AFFIDAVIT:

I, Aqibat Shah, appellant do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.

Dated: 13-06-2022


Deponent/Appellant

Identified By:


Mohammad Aslam Tanoli
Advocate High Court
At Haripur

Dated 13-06-2022


Appellant

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Aqibat Shah Sub Inspector No. 06/H presently posted at Police Training College, Hungu.....(Appellant)

VERSUS

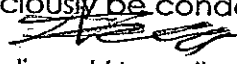
1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. (Respondents)

APPLICATION FOR CONDONATION OF DELAY IN FILING SERVICE APPEAL BEFORE THIS HONOURABLE SERVICE TRIBUNAL.

Respectfully Sheweth:

1. That applicant/appellant has filed today Service Appeal, which may be considered as part and parcel of this application, against order dated dated 03-04-2018, 09-10-2018, 31-01-2022 and 18-05-2022 passed by departmental authorities whereby appellant's representation/appeal have been filed.
2. That as the impugned order has been passed in violation and derogation of the statutory provisions of law, rules and regulations governing the terms and conditions of service of the appellant, therefore causing a recurring cause of action to the applicant/appellant can be challenged and questioned irrespective of a time frame.
3. That impugned order passed by the respondents on 31-01-2022 and communicated on 15-03-2022 and order passed on 18-05-2022 are illegal, without lawful authority and whimsical in manner. The applicant/appellant filed departmental appeal well in time and has rigorously been pursuing his case. The delay, if any, in filing departmental as well as service appeal needs to be condoned.
4. That instant application is being filed as an abundant caution for the condonation of delay, if any. The impugned order is liable to be set aside in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of the instant application the delay, if any, in filing of above titled appeal may graciously be condoned.


Applicant/Appellant

Through:

(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated 13-06-2022

VERIFICATION:

It is verified that the contents of the instant application/appeal are true and correct to the best of my knowledge & belief & nothing has been suppressed.

Dated 13-06-2022


Applicant

ORDER

St. Aqibat Shah No. 107/11, who posted in PS Kaniyallah, Haripur, in criminal case vide Case No. 162 dated 15.02.2011, vide charge sheet No. 116/11, Haripur, the acts and omission of the accused police officer were found to be in violation of police efficiency and discipline rules 1975.

The defaulting police officer was issued show cause notice No. 1429/11C dated 27.02.2011, in which he could not give satisfactory reply, therefore he was served with charge sheet and statement of charges vide this office memo No. 17/09 dated 09.03.2010. Haripur. Mr. Enquiry and recorded the relevant evidence. The enquiry officer submitted his final report vide Memo No. 74 dated 09.03.2010, in which he held the charges of misconduct.

Consequent upon departmental enquiry, the accused police officer was issued Final Show Cause Notice No. 1097/RC dated 09.03.2010, to which he could not give satisfactory reply, he was called in Orderly Room and was heard in person.

Having reviewed the instant enquiry as well as his previous efficient Police Officer, he was also recommended for major punishment by the Superintendent of Police, Haripur, vide his office letter No. 383/PA dated 16.10.2017. In this regard proper departmental enquiry was also conducted by PS/Investigation Haripur vide her office memo No. 31 dated 23.06.2017, in charge sheet No. 44/PA dated 09.03.2017 issued by SP/Investigation Haripur.

The acts and omissions of St. Aqibat Shah were immoral which is against the good conduct of police officer. The charge sheet being competent authority under Police Efficiency & Discipline Rules 1975, Haripur, stands proved, hence is awarded major punishment of "Reduction in Rank from SI to ASI" with immediate effect.

Order announced
 OP No. 276 dated 3/14/2011

No. 2351-56

/SRC Dated 11/12/2018
 Copy of above is submitted to

- 1. The Regional Police Officer, Hazara Region, Abbottabad
- 2. The District Police Officer, Upper Kohistan
- 3. The District Police Officer, Kollat Pallas
- 4. The Superintendent of Police Investigation Haripur

Ali Asad
[Signature]

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ORDER

Amex-B

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by ASI Aqibat Shahi No:307/H Haripur District against the order of punishment i.e. *Reduction in Rank from SI to ASI* awarded to him by the DPO Haripur vide his OB No: 216 dated 03.04.2018.

Facts leading to punishment awarded to him are that he while posted at PS Kotnajibullah as OII, involved himself in criminal case vide FIR No.162, dated 15.02.2018 u/s 376 PPC PS Sarah Salah, Haripur.

After receiving his appeal, comments of DPO were obtained and perused. The undersigned called appellant in O.R on 03.10.2018 where he failed to explain any plausible reason in his defence. Keeping in view his long service, a lenient view is taken and punishment of reversion is converted into major punishment of Reduction in pay by three years.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

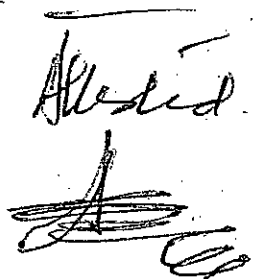
No. 4897 /PA, dated Abbottabad the 7. 10.

/2018.

Copy of above is forwarded to the DPO Haripur vide his office Memo: No: 3852 dated 26.06.2018 for information and necessary action.

Service Roll & Fauji Missal are returned herewith for your office record.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad



11

Amma'e

IN THE COURT OF ARBAB SOHAIL HAMID
Additional Sessions Judge-I/Judge Special Court, Haripur

Sessions Case No : 33/7 of 2018
Date of Institution : 24/09/2018
Date of Decision : 29/09/2021

- 1. The State
- 2. Mst. Bilqees Bibi Wf/o Khalid Mahmood, r/o Wah Cantt.

.....(Complainant)

Versus

Aqeebat Shah S/o Rahim Shah, caste Syed r/o Aloch Pora District Shangla.

.....(Accused facing trial)

Case FIR No. 162 dated 15.02.2018
Offence u/s 376PPC
Police Station Sarai Saleh Haripur

Muhammad Ishaq Battagrami, advocate (Counsel for the accused)
Mr. Chongaiz Khan, (Dy. PP for the State)

JUDGMENT:
29.09.2021

- 1. Vide this judgment; I intend to dispose of the case captioned above.
- 2. The FIR/ memo report in nutshell contained that on 15.02.2018,

Attested to be true copy
Authorized U/A 87 of
Qanun-e-Shahadat order: 1984

12 OCT 2021

Examiner
District & Session Judge
Haripur



Handwritten notes and stamps on the left margin, including a date stamp '29.09.2021' and a signature.

Mst. Bilqees Bibi Wf/o Khalid Mahmood reported the matter to the local police in shape of an application submitted to D.P.O Haripur to the effect that on the night of 14.02.2018 at about 12:00 a.m., she along with her daughter Mst. Sumbal Bibi, in a carry van bearing No.863/Islamabad were coming back to their home from Murree, when they reached at Donali Pull stop, Zain hotel, the local police stopped their vehicle and inquired regarding documents of the vehicle from its driver. That the police party broke the number plate of the carry van by giving kick blows as well as abused them, on which the complainant requested to the police party not to do so, however, they did not agreed. That police stopped them without any reason and took a mobile from the complainant too. That one of police official took her mobile dialed his number on it, whereafter such police official took away the carry van to an unknown place by deboarding the daughter of the complainant and that driver of carry van, and on the rear seat, the police official committed forcible zina with rape of the complainant. After committing rape



Sohail
 29.02.2018

Assessed to be true copy
 Authorized U/A 87 of
 Qanoon-e-Shahadat order-2007
 12 Feb 2018
 State Vs. Aqees
 District & Session Judge
 Haripur

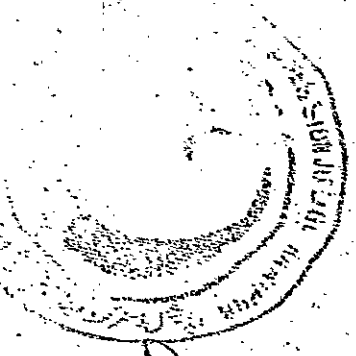


with the complainant, the police then spared them to go. The number which was dialed by the police official on the complainant's mobile, at the time of occurrence, was got verified by her, which was found to be in the name of one Aqeebat Shah, a police Inspector and the complainant charged him for committing such offence above. Application of complainant was marked to SHO concerned, which was culminated into the instant FIR, hence, the instant case.

3. On completion of investigation the final report was submitted, while the nominated accused has been summoned through court process. On attendance, provisions of section 265-C Cr.P.C complied with and copies of the statements etc. provided to the accused, so nominated. Then to proceed u/s 265-D/E Cr.P.C charge framed on 27.09.2019 from the Court of my learned predecessor-in-office, upon which the accused claimed trial. The prosecution then adduced evidence, which is as under:

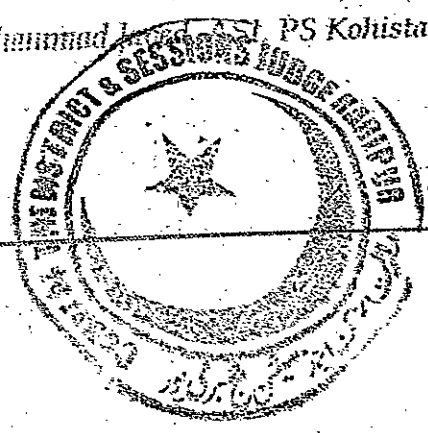
EVIDENCE OF THE PROSECUTION:

PW-1 was the statement of Muhammad ~~...~~ PS Kohistan



Zohair
29.09.2021

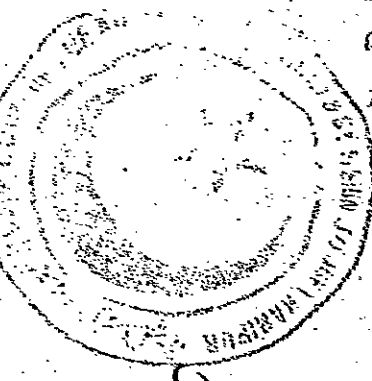
Attested to be true copy
Authorized U/A 87 of
Qanoon-e-Shahadat of
State of Jammu & Kashmir
12 SEP 2021
Examiner
District & Session Judge
Haripur



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which is Ex.PW 3/4. He verified it the correct with its foots and correctly bears his signatures. On same day, he also took into possession the carry oam NO.863/ABU/CT Model 2016 of white color in the presence of marginal witness, recovery memo is Ex.PW 3/5. He also recorded the statement of marginal witnesses in this regard. On same day, he prepared the injury sheet Ex.PW 3/6 of accused Aqeebat Shah and produced him before doctor for medical opinion. He drafted the application for chemical examination of parcel No.1 and 4 which is Ex.PW 3/7. He also annexed the FSL report with file which is Ex.PW 3/8. On 18.02.2018, he produced the accused for judicial remand vide application Ex.PW-3/9 and accused was sent to judicial lock up. He also annexed the departure and arrival of Aqeebat Shah on 16.02.2018 from PS on different times, copy of same is Ex.PW-3/10 to Ex.PW-3/13 respectively. He also drafted application for obtaining of DNA of Mst. Bilqees Bibi and accused Aqeebat Shah. Application is Ex.PW 3/14. He also took into possession the blood samples and swabs vide recovery memo already Ex.PW 2/1. The incriminating articles were sealed and packed into parcel No. 3 and 4 respectively. He also drafted application for sending the same to KMC Peshawar. His application is Ex.PW 3/15. He also drafted application for medical board which is Ex.PW 3/16. The application was turned down by the Judicial Magistrate. He also drafted the application for CDR. He also recorded the statements of PWs and marginal witnesses u/s 161 Cr.P.C. He had have seen all the exhibits which he verified as correct and correctly bears his signatures.

PW-04 was the statement of Dr. Isma Mustafa, Women Medical Officer, DHQ Hospital Haripur who stated that Mst. Bilqees Bibi wife of Khalid Mubinoed aged about 40 years, caste Awan, House wife r/o Wah Cantt was brought by local police lady constable namely, Noreen Bibi No. 727, DSP Samiullahi Zafar on 15.02.2018 at about 04:00 pm. He medically checked her vide application No. 264/2018 and on examination he found the following:



Zohair
 29.09.2021
 11A 117D
 District & Sessions Judge
 Haripur

Approved to be true copy
 Authorized U/A 87 of
 Cantonment Act 1924
 12 State Vs. Aqeebat Shah
 District & Sessions Judge
 Haripur



15⁶

History of sexual assault for 10 to 15 hours back.

On Examination:

ObsHx multipara

History of Menstruation. LMP. 11.02.2018 (fifth days of menses).

Adult size paper worn by the patient because of urinary incontinence for last five years almost.

No mark of struggling on any part of the body at the time of examination.

Vaginal Examination:

External: No redness, no laceration, no abrasion found.

Internal: No blood, no redness, no laceration, no abrasion found. Deep vaginal swab taken for lab analysis sealed stamped and handed over to police.

Anal Examination:

External: Anal sphincter of normal tone, no redness, no abrasion, no laceration seen.

Internally: Anal canal is normal, no tear, no redness found on mucousa of anal canal. Anal swab taken and sealed signed stamped and handed over to police for lab analysis.

On the time of medical examination no semen stain found on perineum and perianal area and pampier at the time of medical examination does not have any semen staining. Patient says that she has changed the pampier. Clothes have no semen stains. Patient says that she has changed her clothes.

Advice:

UPT (lab report negative attached to the MLC report).

Blood sample taken for DNA and handed over to DNA report of dated 15.02.2018.

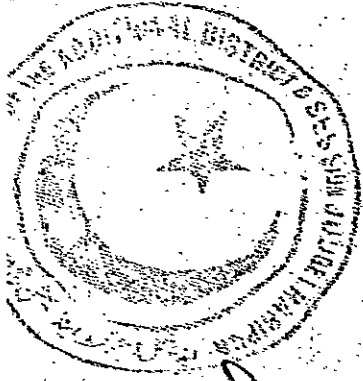
Final opinion after lab report.

I drafted the above mentioned report which is in my hand writing, signed and stamped and is Ex.PW-4/L. Today, I have seen my report which is correct by top to bottom. After preparation of same, I handed over it to the local police/lady constable Noreen Belt No.727 who also

attached with respect to its receiving

Accepted true copy
Dated 20 U/A 87 of
Qadon-a-Shahadat Order

12 OCT 2018
District & Session Judge
Aqeebal Shah



Signature: Zahid
29.07

PW-5 was the statement of of Rizwan Ashraf, IHC, PS City, Haripur who stated that he is marginal witness to recovery memo dated 15.02.2018 vide which one Ejaz Ahmad HC handed over one test tube blood of Mst. Bilqees Bibi and two sealed bottles of stools from lady doctor of DHQ Haripur to SI/OH who prepared parcel No.1 of blood test tube and parcel No.2 and also affixed 3/3 seals namely MV and prepared the instant recovery memo already exhibited as Ex.PW 3/1 which was signed by the IO and also got it signed by him and the other marginal witnesses. He seen his signature and got verified as correct. Similarly, he is also marginal witness to another recovery memo Ex.PW 3/5 dated 17.02.2018 vide which one Junaid Jilani s/o of Irshad Jilani produced his Suzuki carry bearing No. AVU 863 ICT model 2016 having white color about which the complainant namely, Mst. Bilqees bibi narrated about zina in the said vehicle to SI/OH, who prepared the instant recovery memo and signed it which was also got signed by him and the other marginal witnesses. He verified his signature as correct. His statement u/s 161 Cr.P.C was also recorded by the IO.

PW-6 was the statement of Muhammad Anwar Khan (retired inspector CTD Abbottabad) son of Faqeer Muhammad r/o Baghati, Kassaki, Abbottabad, who stated that during the days of occurrence, he was posted at PS Sarai Saleh. He have partially investigated the case. On his transfer to PS Sarai Saleh, the investigation of the instant case was entrusted to him. He issued parcha 12 for the verification of accused to concerned PS Alooah Pora district Shangla which is Ex.PW 6/1 bearing his signature correctly. On completion of the investigation, he handed over the case file to the then SHO for the submission of the challan.

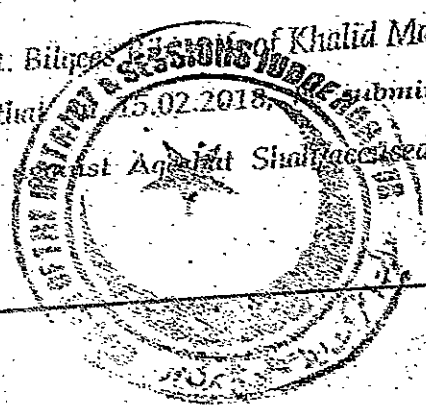
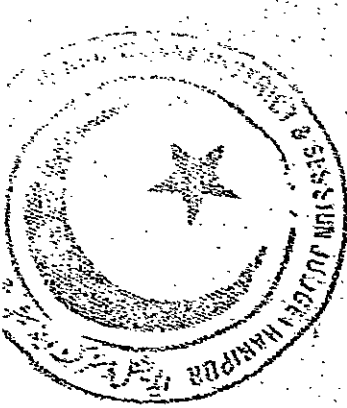
PW-07 is the statement of Mst. Bilqees Bibi s/o of Khaliq Mahmood submitted on 15.02.2018.

r/o Wah Cantt, who stated that application to DPO Haripur

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 Haripur



Shahid

trial had committed zina-bil-jabar. He has seen his application which he verified his thumb impression as correct and signature correctly and is Ex.PW 7/1. Upon which, the instant case was registered. He was also medically examined through injury sheet at DHQ hospital Haripur and swab was taken. At the time of occurrence, he charged the accused facing trial for the commission of offence. The site plan was also prepared on his pointation.

PW-8 was the statement of Dr. Javed Iqbal Khan, CMO, DHQ Hospital, Haripur, who stated that as per injury sheet, he medically examined the accused who was unwilling to perform the test whether he is capable to perform sexual act or not, however, blood samples and semen samples were taken for DNA purpose which was handed over to the police. Samples were sealed and stamped by me. He seen MLC No.280 dated 17.02.2018 which is Ex.PW 8/1, which is duly signed and stamped by him.

PW-9 was the statement of Siddique Shah, SHO, PS Sarai Saleh, who stated that he drafted injury sheet of the victim Mst. Bilqees Bibi vide which Dr. Isma Mustafa has examined the victim. Injury sheet is Ex.PW 9/1. He seen the injury sheet which he verified the same as correct and correctly bears her signature. Similarly, on completion of investigation, he submitted final report/challan against the accused, which is in his handwriting and correctly bears his signature and is Ex.PX.

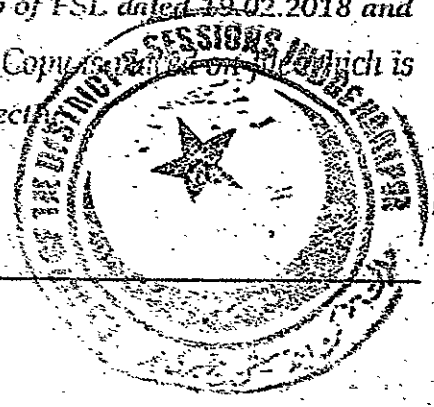
PW-10 was the statement of Muhammad Ijaz, MM PS Sarai Saleh, Haripur who stated that on 19.02.2018, he handed over two parcels of the instant case along with other parcels of another case for onward submission to FSL Peshawar to Fiaz Constable No.81 through receipt No.28/21 who after depositing the same in the FSL came back and handed over the receipt having a stamp of FSL dated 19.02.2018 and he annexed the receipt with the record. Copy is attached on which is Ex.PW 10/1 bearing my signature correct.



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29.02.2018
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17 FEB 2018
District & Sessions Judge
Haripur
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PW-11 was the statement of Muhammad Fiaz s/o Sardar r/o Malkin (retired constable) who stated that during the days of occurrence, he was posted in PS Sarai Saleh. On 19.02.2018, the MM handed over to him the parcel No.1 and 4 of the instant case along with some other parcels of another case for onward submission to FSL through receipt No.28/21 already exhibited as Ex.PW 10/1. After submission to FSL he came back to the PS on the same day and handed over the receipt having a seal of FSL to the then MM.

4. After closing the prosecution evidence, statement of the accused was recorded u/s 342 Cr.P.C wherein he professed his innocence and alleged false implication, while denied to be examined on oath u/s 340 (2) Cr.P.C in his defence or to produce defence evidence in the case.

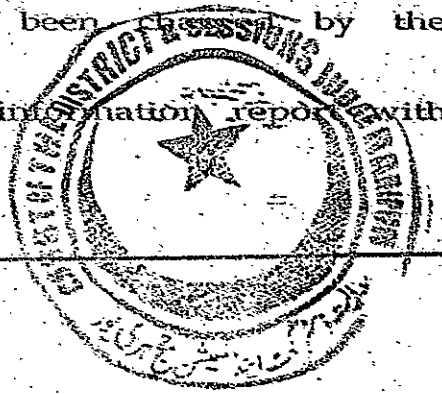
5. After the conclusion of trial, I have given my due consideration to the arguments advanced by the learned counsel for the accused with the learned Dy.PP for the State and gone through the record.

6. From the prosecution, it has been contended that the accused facing trial has been cross-examined by the complainant in the first information report with



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District Judge



prompt allegations. The offence for which the accused was charged is of moral turpitude which not only effect the individual, but the public at large too. That from the prosecution evidence, case against the accused is established beyond any doubt and he be convicted.

7. The learned defence counsel rebutted arguments of the prosecution and contended that the medical report available on file is in negative which negates the version of complainant and shows that no offence is committed etc. That from the prosecution evidence so recorded, commission of offence by the accused is not established and submitted for acquittal of the accused too.

8. As per record, following are the points of determination in the instant case: -

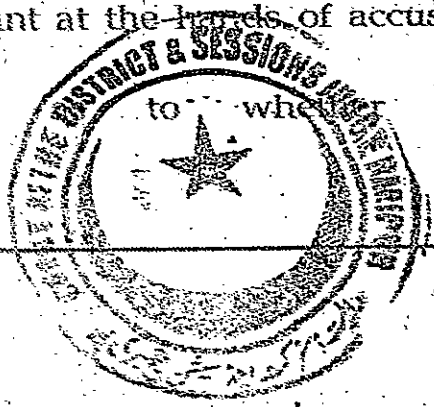
i. From the prosecution to commit rape of the complainant at the hands of accused, facing trial to who the



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MAGISTRATE
QANOON-E-SHAHADAT
29-05-2024

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circumstances i.e. the coming from Murree to Wah Cantt, by the complainant in company of her daughter and in a Carry Van on the eventful night etc, are established or not?

ii. The identity of the accused, facing trial to be the police official for intercepting the complainant party and further subjected her to sexual assault with any role, is whether proved or not?

9. On perusal of the record and legal assistance of the counsels, further on points of determination in the case as per law, it is pertinent to mention that the prosecution evidence is not only fragile, but is totally in contradiction with the alleged report, while the PWs also confuting each other's stance. As per FIR, the occurrence is reported to have taken place on the night of 14.02.2018, at about 12:00, a.m., at Donali Pull, near Zain Hotel, within the criminal jurisdiction of PS Sarai Saleh, when complainant with her daughter and



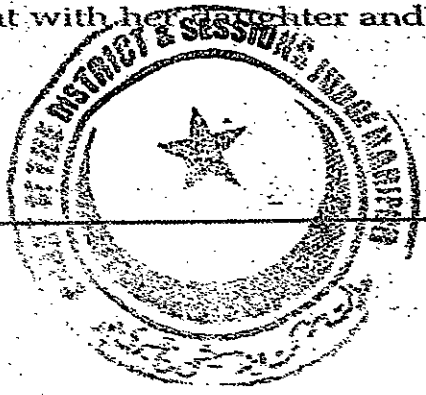
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Qasim Ali Shah
District & Sessions Judge
Wah Cantt



a driver in a carry van were coming back from Murree to Wah Cantt. However, on next day, i.e. 15.02.2018, at 15.30 hours, complainant lodged the report with the delay of almost 12 hours, which is unexplained too. The complainant could not give any plausible explanation of such delay which always cast doubts in the prosecution case. The medical evidence on record is of no help to the case of the prosecution against the accused. As the victim was medically examined, however, the medical report does not show the factum of rape with the complainant, as per medical report, the victim/complainant was in the days of menstruation having fifth day of same. Medical report shows that the victim was not subjected to sexual assault, however, in order to get actual history of sexual assault the internal and external swabs were taken of victim which was sent to FSL report whereof received as "vaginal and anal swab was negative for human semen in Parcel No.1 and one vial containing human semen in parcel No.4. Similarly, the clothes of victim which were worn by her at the time of alleged

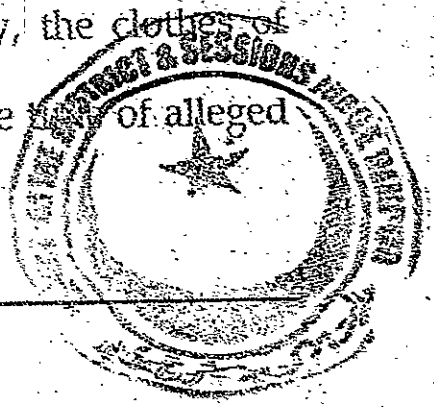


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 Sessions Judge
 Wah Cantt



occurrence were not sent to the FSL as such to establish no such act of sexual assault like negative medical report for no bruise or sexual assault not showing the victim as if subjected to rape, which she categorically admitted that she after the occurrence i.e. took a bath and changed her clothes, not even provided in evidence later. Reliance for this is placed on following case laws:-

- i. 2003 YLR 2832,
- ii. 1972 P.Cr.LJ 1213,
- iii. 1997 P.Cr.LJ 1107&
- iv. 2000 P.Cr.LJ 1452.

This mean that medical evidence is not in line with the prosecution version. Furthermore, as per FIR, the complainant in her report stated that at the time of alleged occurrence, she was accompanied with her daughter namely, Mst. Sumbal Bibi and a driver of the vehicle, however, the prosecution, in order to prove the case against the accused facing trial, did not arrayed these two witnesses, who have alle

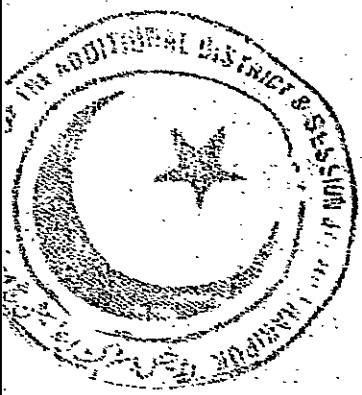
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District & Session Judge
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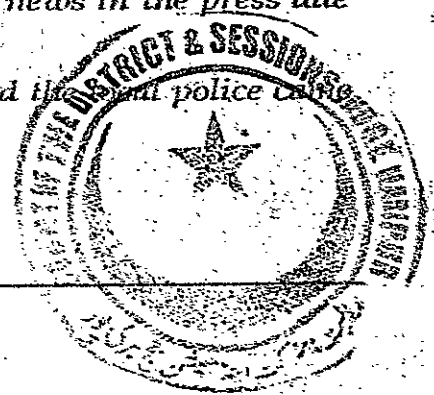
present with the complainant at the time of occurrence, despite the fact that their statements u/s 161 Cr.P.C were recorded, as such withheld best available evidence in the case. With this, no private or independent witness has been associated with respect to the occurrence or altercation with the complainant with accused facing trial despite the fact that place of occurrence is a busy place, i.e. a hotel and patrol pump, whose service continues 24 hours. With this, statement u/s 161 Cr.P.C was also recorded of a waiter of hotel mentioned above, however, the said person was not cited as eye witness of the altercation of accused with the complainant and it is again to withheld best evidence in the case. PW-03, i.e. the IO in his cross examination stated that "It is correct that no private, independent witness was associated with the proceedings". IO in his cross further stated that "it is correct that no direct evidence or eye witness is available against the accused facing trial". He also stated that "It is correct that the complainant gave the news in the press due to which this case was highlighted and the police case



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 ADDITIONAL DISTRICT & SESSIONS JUDGE
 HAMIRPUR
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 Sessions Judge



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into movement while on record and in my investigation nothing has been proved by the complainant". Furthermore, there is nothing on file from the complainant regarding the reason to go Murree and coming back from there. Accused did not confessed his guilt before any Court. Moreover, complainant in her first report stated that the accused facing trial from her mobile, dialed his own mobile number, while the next date, she probed regarding the ownership of that dialed number and found the same to be on the name of accused facing trial. The record is silent about the mode and manner, which was adopted by the complainant to probe the ownership of such SIM/ cell number of accused. Besides all above, the complainant/ victim appeared before the Court and recorded her statement as PW-07, who in her cross-examination has specifically denied her earlier version which she had taken in the memo report, by stating that the time when the occurrence took place was midnight and accused was not in police uniform and also did not know the name of the Complainant's



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 Islamabad

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Examiner
 District & Session Judge
 Islamabad



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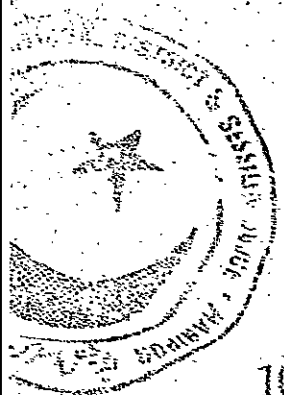
driver in which she along with her daughter was travelling to their house from Murree to Wah Cantt. She in cross categorically expressed her no objection on the acquittal of the accused facing trial and stated that "It is correct that I have no objection if the accused facing trial acquitted by this Honorable Court". Furthermore, she endorsed the innocence of the accused facing trial when conceded for Ex RW-7/R-1 that she stated therein about the innocence of the accused with submission further that she is not interested to prosecute him. With this, there is nothing on file regarding the medical examination of the accused facing trial with respect of capability of accused to perform sexual act and the whole record is silent in this respect, which is quite strange and to negate the prosecution too.

10. The prosecution did not produce any eye witness of such an occurrence i.e. not even of any other family member of the complainant for the facts to prove that the complainant was if went to Murree from Wah

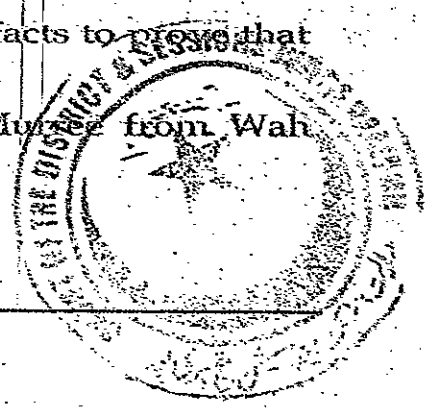
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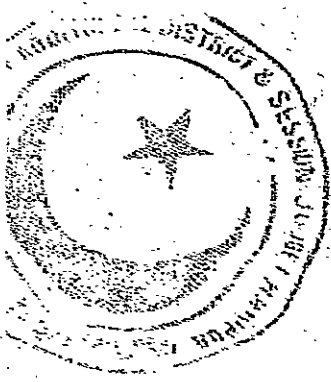
State Vs. Aqsa
 District & Session Judge
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Cantt and returned etc. There was no recovery of any incriminating article on record to connect the accused facing trial with commission of offence i.e. with medical evidence, which is also of no help to connect the accused facing trial with the present crime. The prosecution case with reference to statement of the PW-2 as marginal witness of recovery memo as Ex PW-2/1 about the swabs etc. is if perused, so the witness in cross disclosed that the recovery memo was prepared in the hospital, while the doctor has not taken the sample in his presence, which is to create doubts further on the factum to collect samples in the case and further on its proper preservation, which otherwise to have reports in negative and admittedly with nothing to be any sample taken from the accused, facing trial with any DNA in the case to cross-match and to support the prosecution stance for offence as rape of the complainant at the hands of the accused. Moreover, the investigation officer as PW-3 in his cross also negated the occurrence in the manner and mode, while admitted that the place of occurrence



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is populated area i.e. GT road a highway and no doubt a public place with no witness private and independent in the case. Similarly; the witness admitted also in cross that the complainant/ victim after the occurrence proceeded to her native city at Wah Cantt without lodging any report i.e. to admit the factum of delay with otherwise to suggest that the report has been made on consultation with ulterior motives from the complainant to charge the accused, facing trial, which is though a mystery, but admittedly best known to the complainant. With this, the doctor examined the complainant/ victim as PW-4 in cross negated all such facts of commission of offence as mentioned earlier when disclosed that the complainant had fifth day of her periods when examined and that nothing to be any report in positive with nothing even to be any violence marks observed on the body of the complainant/ victim. Similarly; the witness disclosed that the semens remains for 48 to 72 hours in the vagina, however, in the instant case, nothing was noted nor taken as a sample on

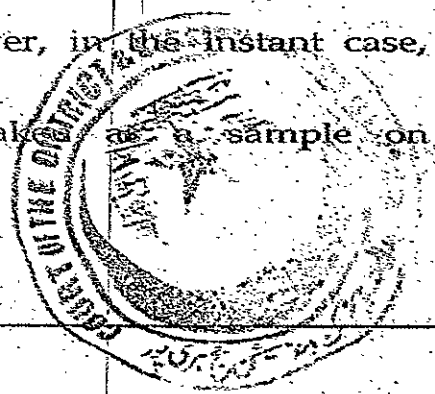


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 Bahawalpur



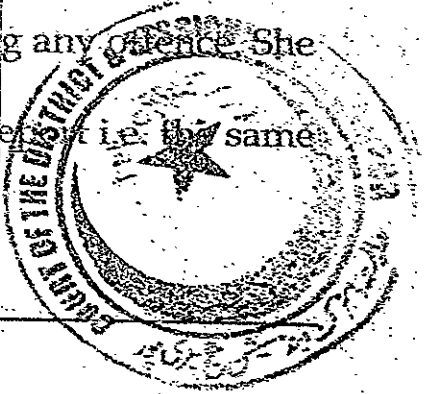
examination of the complainant/ victim; meaning thereby that she has not been subjected to any sexual intercourse, which is otherwise not permissible in a situation when a lady has menstruation and which is admitted to be of fourth to fifth day at the time of occurrence and medical of the complainant/ victim. With reference to any record of the Carry Van in the case, it is the recovery memo Ex PW-2/5 i.e. produced by one Junaid Jillani in the case. However, nothing to be any statement of such person in the case i.e. to corroborate the factum of travelling of the complainant in such Carry Van on the eventful day from Murree to Wah Cantt etc. The witness of such recoveries as PW-5 in the case, negated the same with admission in the cross for not preserving properly such case property though recorded to recover in the case. The complainant/ victim though named the accused, facing trial to commit the offence, but unable to disclose the source with even identity of the accused to be charged for committing any offence. She admitted the delay for lodging the report i.e. the same



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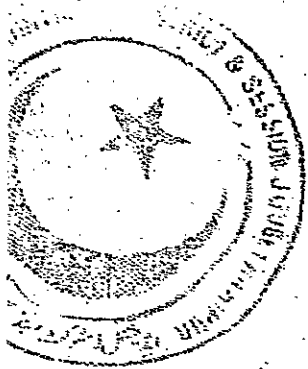
12 OCT 2021
 State P.S. ~~Wah Cantt~~
 District & Sessions Judge
 Wah Cantt



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was of 12 hours and with this, to admit that the accused is innocent as mentioned earlier. In this scenario, if the statement of accused is perused, it is negation of all the questions put with reference to commission of offence in the manner and mode reported and with this the accused further has not made any confession in the case to admit any offence.

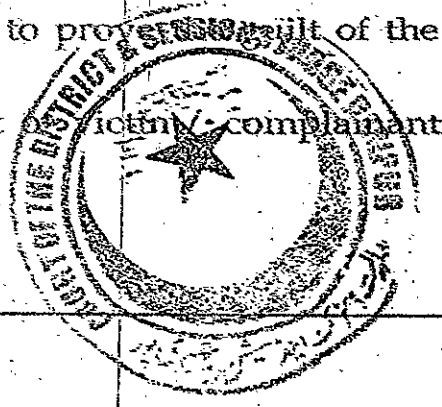
11. The prosecution could not produce cogent, reliable and confidence inspiring evidence. There are many doubts in the case of the prosecution against accused facing trial and it is well settled principle of law that even a slightest doubt arising out of the prosecution is sufficient to discredit story of the prosecution. Thus prosecution has not been successful to bear at the accused facing trial of any doubt. The case of the prosecution is neither supported by any eye witness nor by any sort of circumstantial evidence. No cogent, reliable and confidence inspiring evidence or material has been brought on record to prove guilt of the accused. The FIR, statement of victim/complainant



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Hawara



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are self-contradictory and it can be safely held that it is a case of no evidence. The investigation officer has not succeeded to collect any incriminating material as evidence to connect the accused further with the commission of offence.

12. For conviction of the accused authentic direct or circumstantial evidence is required, which is acceptable to logic and reason, while in the case of accused facing trial no cogent and reliable direct or circumstantial evidence is available on file which could be based for his conviction. The above appreciation of evidence has led this court to the conclusion that the prosecution has failed to prove its case against the accused facing trial i.e. beyond doubts. Resultantly, while extending the benefit of doubt in his favour the accused facing trial namely, Aqeebat Shah is acquitted of the charges leveled against him. The accused is on bail, his bail bonds stands cancelled and sureties are accordingly discharged from such liability.

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State of Aqeebat Shah
District & Sessions Judge



Zohair
29.09.2021

13. Case property, if any, be kept intact till the expiry of period of appeal/revision and thereafter, the same be disposed of in accordance with law.

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

Announced in open Court and given under my handwriting and seal of the Court on this 29th day of September, 2021.

Sohal

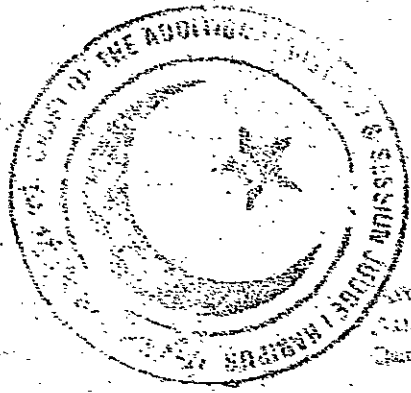
ARBAB SOHAIL HAMID
Additional Sessions Judge-I,
Haripur

CERTIFICATE

Certified that this judgment of mine are consists of 22 (Twenty Two) pages. Each page has been read, signed and corrected by me wherever necessary.

Sohal

Additional Sessions Judge-I,
Haripur



Arabic text: *مستنداً إلى ما قرأه المحكم*
المستند رقم 67-97
عن السيد شاهداد خان

17 OCT 2021

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Annex-D

**BEFORE HONOURABLE REGIONAL POLICE OFFICER,
HAZARA REGION, ABBOTTABAD.**

(Departmental Appeal by Aqibat Shah SI No. 307/H).

(THROUGH PROPER CHANNEL)

**DEPARTMENTAL APPEAL AGAINST ORDER DATED 03-04-2018 OF
THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS
BEEN AWARDED MAJOR PUNISHMENT OF "REDUCTION IN RANK
FROM SUB INSPECTOR TO ASI" AND ORDER DATED 09-10-2018
OF REGIONAL POLICE OFFICER HAZARA REGION ABBOTT BAD
WHEREBY HIS DEPARMENTAL APPEAL WAS PARTIALLY ACCEPTED
AND PUNISHMENT OF REDUCTION IN RANK WAS CONVERTED
INTO REDUCTION IN PAY BY THREE STAGES AND ON ACCOUNT
OF SAID PUNISHMENTS HIS NAME WAS NOT ENTERED IN D.P.C.
HELD ON 10-10-2017 AND 23-05-2018 FOR CONFIRMATION AS
SUB INSPECTOR.**

**PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL
THE IMPUGNED ORDER DATED 03-04-2018 AND 09-10-2018 MAY
KINDLY BE SET ASIDE AND APPELLANT BE RESTORED HIS 03 YEARS
REDUCTED PAY ON THE BASIS OF FRESH CAUSE OF ACTION I.E.
HIS ACQUITTAL IN CRIMINAL CASE VIDE JUDGMENT/ORDER
DATED 29-09-2019 AND HE BE CONFIRMED AS SUB INSPECTOR
WITH EFFECT FROM 10-10-2017 INSTEAD OF 07-05-2021 WHEN HIS
JUNIORS WERE CONFIRMED WITH ALL CONSEQUENTIAL SERVICE
BACK BENEFITS.**

Respected Sir,


1. That appellant was inducted in police department on 01-10-1989. He was promoted as ASI on 08-04-2008 and confirmed as ASI on 08-04-2010. He was further promoted as Sub Inspector on 13-06-2014. For his great services the appellant was also awarded "**QUID-E-AZAM MEDAL AWARD**" by his police High-Ups. Appellant was due to be

Attested



judgment/order dated 29-09-2021 and the charge due to which the appellant was reduced in rank from Sub Inspector to ASI and not considered for confirmation as SI has vanished away and fresh cause of action has accrued to the appellant for filing instant appeal for restoration of his pay and confirmation etc. **(Copy of the judgment/order dated 29-09-2021 is attached as "E")**.

6. That there is no other charge against the appellant except this false and fabricated involvement in criminal case as mentioned in the preceding para. That charge has been quashed with the acquittal of appellant in the criminal case. The appellant thus has acquired fresh cause of action to demonstrate his snatched legitimate rights like reversion in rank/pay and non-consideration for confirmation as Sub Inspector despite the fact that appellant already had requisite qualifications on his side.
7. That now the appellant has been confirmed as Sub Inspector vide order dated 07-05-2021 as he fulfilled all the requisite qualifications for his confirmation.
8. That no proper departmental inquiry was conducted. Neither any evidence was recorded in presence of the appellant nor was he afforded a chance of cross-examination. Copy of enquiry report was also not given to the appellant. No Show Cause Notice was issued to him. Even opportunity of personal hearing was not provided to him and he was condemned unheard.

Attested


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9. That appellant has rendered more than 32 years service in the police department. He always performed his assigned duties with devotion, dedication and honesty and even on occasions for his tremendous services he has been awarded with the commendation certificates and cash rewards by his High-Ups. He has meritorious service record at his credit.
10. That if the appellant is afforded with the opportunity of personal hearing he will really prove him as entitled for confirmation etc by adducing credible facts of the matter.

Sir, in view of the facts and circumstances narrated here above, it is earnestly requested that impugned order dated 03-04-2018 and 09-10-2018 may kindly be sat aside and the appellant be restored his three years reduced pay and he be confirmed as Sub Inspector from 10-10-2017 when his juniors were confirmed with grant of all consequential service back benefits. Thanking you sir in anticipation.

Your obedient Servant

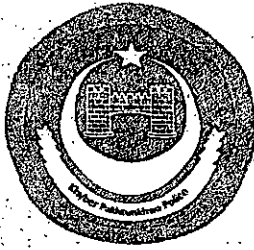


(Aqibat Shah)

Sub Inspector No. 307/H
Abbottabad

Dated: -10-2021





35

Amer-E

OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

☎ 0992-9310021-22

☎ 0992-9310023

✉ r.rpohazara@gmail.com

📞 0345-9560687

NO: 2047 /PA DATE 31 / 01 /2022

To: The District Police Officer
Abbottabad

Subject: APPLICATION

Memo:

Please refer to your office Memo No. 10441/GB dated 02.11.2021.

With reference to the subject cited application the worthy RPO Hazara has recorded the following remarks.

“Filed” (as the appeal has already been decided vide this office order Endst No.15496/PA dated 14.07.2021 and Order Endst. No. 4897/PA dated 09-10-32018.

The official may be informed accordingly please.

Office Superintendent
For REGIONAL POLICE OFFICE
HAZARA REGION, ABBOTTABAD

Attested

Regional Police Officer
Hazara Abbottabad
15-3-2022.

Anna - F

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BEFORE KPK PROVINCIAL POLICE OFFICER
PESHAWAR

REVISION/MERCY APPEAL AGAINST ORDER DATED 03-04-2018
OF THE DPO HARIPUR WHEREBY APPELLANT HAS BEEN AWARDED
MAJOR PUNISHMENT OF "REDUCTION IN RANK FROM SUB
INSPECTOR TO ASI" AND ORDER DATED 09-10-2018 OF RPO
HAZARA REGION ABBOTTABAD WHEREBY HIS DEPARTMENTAL
APPEAL WAS PARTIALLY ACCEPTED AND PUNISHMENT OF
REDUCTION IN RANK WAS CONVERTED INTO REDUCTION IN PAY
BY THREE STAGES AND ON ACCOUNT OF SAID PUNISHMENTS HIS
NAME WAS NOT ENTERTAINED IN D.P.Cs. HELD ON 10-10-2017
AND 23-05-2018 FOR CONFIRMATION AS SUB INSPECTOR AND
ORDER DATED 31-01-2022 DELIVERED ON 15-03-2022.

PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL
THE IMPUGNED ORDER DATED 03-04-2018, 09-10-2018 AND 31-
01-2022 MAY KINDLY BE SET ASIDE AND APPELLANT BE
RESTORED HIS 03 YEARS REDUCTED PAY ON THE BASIS OF FRESH
CAUSE OF ACTION I.E. HIS ACQUITTAL IN CRIMINAL CASE VIDE
JUDGMENT/ORDER DATED 29-09-2019 AND HE BE CONFIRMED
AS SUB INSPECTOR WITH EFFECT FROM 10-10-2017 INSTEAD OF
07-05-2021 WHEN HIS JUNIORS WERE CONFIRMED WITH ALL
CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir,

1. That appellant was inducted in police department on 01-10-1989. He was promoted as ASI on 08-04-2008 and confirmed as ASI on 08-04-2010. He was further promoted as Sub Inspector on 13-06-2014. For his great services the appellant was also awarded with "**QUID-E-AZAM MEDAL AWARD**" by his police High-Ups. Appellant was due to be confirmed as Sub Inspector alongwith his colleague vide order 10-10-2017 but was ignored without any reason. (Copy of confirmation notification dated 10-10-2017 is attached as "A").

Ali
Ali

2. That appellant while posted as SI (OII) P.S. Kotnajibullah was awarded the punishment of reduction in rank from Sub Inspector to ASI by the District Police Officer Haripur vide order dated 03-04-2018 on account of registration of a false and fabricated criminal case No.162 dated 15-02-2018 under section 376 PPC at Police Station Sera-e-Saleh against him. **(Copy of punishment order dated 03-04-2018 is attached as "B")**.
3. That appellant aggrieved of punishment order filed a departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad which was partially accepted and his punishment of reduction in rank was converted into reduction in pay by three years vide order dated 09-10-2018. **(Copy of the appellate order dated 09-10-2018 is attached as "C")**.
4. That due reason appellant's name was not entertained in the DPC held on 23-05-2018 for confirmation of Sub Inspectors even with his juniors. **(Copy of confirmation notification dated 23-05-2018 is attached as "D")**.
5. That as Honorable Additional Session Judge-I Special Court Haripur acquitted appellant vide order dated 29-09-2021 and charge on which account the appellant was reduced in rank from Sub Inspector to ASI and ignored from consideration for confirmation as SI had vanished away and fresh cause of action had accrued to the appellant for filing fresh appeal for restoration of his pay & confirmation. **(Order dated 29-09-2021 as "E")**.

Attest


6. That after obtaining acquittal order, the appellant filed departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad but misconceiving the grounds of the appeal the same was rejected vide order dated 14-07-2021 but appellant was not communicated. The appellant, therefore, again requested for result of his appeal which were then passed vide order 31-01-2022 but copy not provided to appellant. However, on his specific written request an attested copy of the same was issued to him on 15-03-2022. **(Copies of appeal & order dated 31-01-2022 are attached as "F & G")**.
7. That there was/is no other charge against the appellant except this false and fabricated criminal case as mentioned above. That charge has been vanished away with the acquittal of appellant in said criminal case. Thus fresh cause of action has accrued to appellant to appeal against his penalty of reduction in pay and non-consideration for confirmation as Sub Inspector despite the fact that appellant already had requisite qualifications on his side.
8. That now the appellant has been confirmed as Sub Inspector vide order dated 07-05-2021 as he fulfilled all the requisite qualifications for his confirmation.
9. That no proper departmental inquiry was conducted. Neither any evidence was recorded against him in his presence nor was he afforded a chance of cross-examination. Copy of enquiry report was also not given

Attested
A
C

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to appellant. No Show Cause Notice was issued to him. Even opportunity of personal hearing was not afforded to him and he was condemned unheard.

10. That appellant has rendered more than 32 years service in the police department. He always performed his assigned duties with devotion, dedication and honesty and even he has been awarded with commendation certificates and cash rewards by his High-Ups for his tremendous services. He has meritorious service record.
11. That if the appellant is afforded with the opportunity of personal hearing he will really prove his innocence and entitlement for confirmation as prayed for by adducing credible facts.

Sir, in view of the facts and circumstances narrated here above, it is earnestly requested that impugned order dated 03-04-2018, 09-10-2018 and 31-01-2022 may kindly be set aside and the appellant be restored his three years reduced pay and he be confirmed as Sub Inspector from 10-10-2017 when his juniors were confirmed with grant of all consequential service back benefits. Thanking you sir in anticipation.

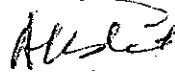
Your obedient Servant


(Aqibat Shah)

Sub Inspector No. 307/H
Now at PTC Hungu

17.
Dated: ~~24-03-2020~~

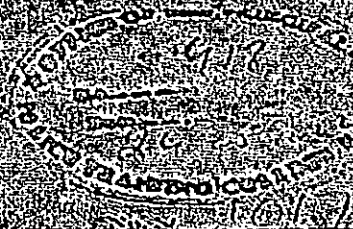
17.3.22





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Amna - 4



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

The Commandant
Police Training College
Hangu.

Subject: REPRESENTATION

Memo

Please refer to your office Memo No. 248/EC dated 24.03.2022.

The Competent Authority has examined and filed the revision petition submitted by Sub-Inspector Aqibat Shah No. 06/11 of Hazara Region presently serving at PTC Hangu against the punishment of reduction in pay by three years awarded by Regional Police Officer, Hazara vide order Endst No. 4897/PA. dated 09.10.2018, being time barred.

As far as confirmation in the rank of Sub-Inspector is concerned, the applicant may be informed to approach to the respective concerned RPO.

The applicant may please be informed accordingly.

SI Aqibat Shah

(NOOR AFGHAN)
Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 22

Copy of above is forwarded for information to the Regional Police Officer, Hazara at Abbottabad w/r to his office order No. quoted above.

U/ SRC
To inform
the applicant

(NOOR AFGHAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Ali