FORM OF ORDER SHEET

Court of			 	
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٠.		Case	No	1723/2022_
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	S.No.	Date of order proceedings	Order or other	proceedings with signature of judge
	1	2		3
	1-	30/11/2022	The	e appeal of Mr. Umer Rehman presented today
		٠.	by Mr. Kh	alid Khan Mohmand Advocate. It is fixed for
			preliminary	hearing before touring Single Bench at Swat
			on	. Notices be issued to appellant and his counsel
			for the date	
				By the order of Chairman
		-		New York
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BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal	No	1723	/2022

Umer Rehman Ex-FC No.5605, District Bunir.........Appellant

Versus

Inspector General of Police Khyber Pakhtunkhwa, Peshawar

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Through

Appellant

Khalid Khan Mohmand

Haider Ali

Advocates, High Court

Peshawar

Cell#0315-9322230

- 0344-9167431

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<u>BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER</u> <u>PAKHTUNKHWA, PESHAWAR</u>

Service Appeal No. 1723 /2022

Umer Rehman Ex-FC No.5605, District Bunir

...Appellant

Versus

- 1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- 2. AIG Elite Force, Khyber Pakhtunkhwa, Peshawar
- 3. Additional Inspector General of Police Elite Force, KPK, Peshawar.
- 4. Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar

.....Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 READ WITH ALL ENABLING
PROVISIONS OF LAW GOVERNING THE
SUBJECT AGAINST OFFICER ORDER
NO:6617-EF-DATED:24.06.2021 OF
RESPONDENT NO:04 VIDE WHICH
APPELLANT HAS AWARDED MAJOR
PENALTY OF DISMISSAL FROM
SERVICE, ORDER NO:1303-EF,
DATED:08.02.2022 OF RESPONDENT

NO.03 VIDE WHICH DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED:24.06.2021, HAS BEEN REJECTED AND ORDER NO.2414 DATED:04.11.2022 OF RESPONDENT **VIDE** WHICH **REVISION** NO.02. PETITION OF APPELLANT AGAINST THE **BOTH AFOREMENTIONED** ORDER, RESPONDENT NO.03 & 04 WAS TURNED DOWN.

<u>Prayer in Appeal:-</u>

On acceptance of this appeal, impugned order dated:14.06.2021 (Respondent No.04), & 08.02.2022 of Respondent No.03 and 04.04.2022 of Respondent No.02 may kindly be set aside and appellant be re-instated in service with all back benefits.

Respectfully Sheweth:

Brief Facts:-

- 1. That the appellant is law abiding and peaceful citizen of Pakistan and permanently resident of District Bunir. (Copy of CNIC is annexed as Annexure "A").
- 2. That appellant being qualified, was in-listed as constable (Elite Force) in KPK, police department by the competent authority by the order

dated:08.10.2008 and since then till issuance of impugned order dated:24.06.2021.

- That appellant has unilaterally been dismissed from 3. respondent No.04 vide order service by dated:24.06.2021, without fulfillment legal/codal formalities i.e charge sheet, regular inquiry and show cause notice etc on the sole ground of dismissal from service, on the basis of false/fabricated FIR No.145, dated:09.04.2021 Under Section 496-A PPC Police Station Swarit City Bunir. (Copies of order FIR No.145 dated:24.06.2021 and dated:09.04.2021 are attached as Annexure "B" & "C").
- 4. That appellant aggrieved from aforementioned order preferred departmental appeal against the order dated:24.06.2021 but was rejected by respondent No.03 by the order dated:08.02.2022, eventually he approached the respondent No.02, through filed Revision petition, dated: 7-021 however, the same was rejected vide order dated:04.11.2022. (Copies of order dated:08.02.2022 of Respondent No.03 along with departmental appeal, order dated:04.11.2022 of Respondent No.02 along with Revision petition are annexed as Annexure "D" & "E").
- 5. That appellant being aggrieved of aforementioned orders approaches, this Hon, ble Tribunal for re-

4

instated with service, with all back benefits inter alia on the following grounds:-

GROUNDS:

- A. That impugned orders dated:24.06.2021, 08.02.2022 and 04.11.2022 of Respondents No.02 & 03 and 04 against the law and peculiar facts of the case of appellant, hence carry no legal formality.
- B. That the local police of police station Swarti City Buner, incarcerated the appellant in case FIR No.145 dated:09.04.2021 under section 496-A PPC, on the strength whereof impugned order of dismissal from service has been issued without either affording opportunity of proper hearing of conducting regular inquiry into his guilt, hence has been condemned unheard which attracts the doctrine Audi Alterm Partem.
- C. That the appellant was charged by complainant (Ameer Zada S/O Ghulam Habib) in case FIR No.145, under section 496-A PPC for abduction of her daughter, wherein the complainant appeared as PW-3 recorded his statement in favour of the appellant and exonerated of the appellant in the above mentioned charges on the basis of compromise. (Copies of PW-03 & 04 statements attached as Annexure "F" & "G").
- **D.** That the daughter of complainant/abductive also appeared and produced Nikah Nama and declared appellant as her husband. However the appellant filed

an application under section 249-A Cr.PC, for acquittal on the said application of the appellant was allowed, vide order dated:24.01.2022 the appellant was acquitted from the charges leveled against him.

(Copies of Nikah Nama, application US 249-A Cr.PC dated:19.01.2022 and order dated:24.01.2022 of the learned Senior Civil Judge, Bunir attached as Annexure "H", "I" & J").

- E. That respondent department has no lawful authority to punish appellant for no wrong, rather they are duty bound to treat him in accordance with law and to provide him equal protection of law but, the respondent department instead of follow the law/rules on the subject, issued the impugned order which has caused grave miscarriage of justice.
- F. That respondent No.04 was duty bound to pass appropriate order in pursuance of recommendations of inquiry officer but astonishingly the impugned order has been passed, in utter disregard, not only to the law/rules governing the subject but also to the recommendation of inquiry officer, which speaks volumes on malafide on his part.
- G. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, impugned orders dated:24.06.2021, 08.02.2022, and 04.11.2022 of the respondents may be set aside and appellant may be re-instated in service with all back benefits.

Any other relief no specifically prayed for and deemed appropriate by this Hon'ble Tribunal in circumstances of the case, may also be granted for the best administration of justice and fair play.

Appellant

Through

Khalid Khan Mohmand Harde All'

Haider Ali

Advocates, High Court

Peshawar

Cell#0315-9322230

Dated:

VERIFICATION:-

It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.

DEPONENT

<u>BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER</u> <u>PAKHTUNKHWA, PESHAWAR</u>

Service Appeal No/2022
Umer Rehman Ex-FC No.5605, District BunirAppellant
Versus
Inspector General of Police Khyber Pakhtunkhwa, Peshawar
& Others
Respondents
AFFTDAWTT

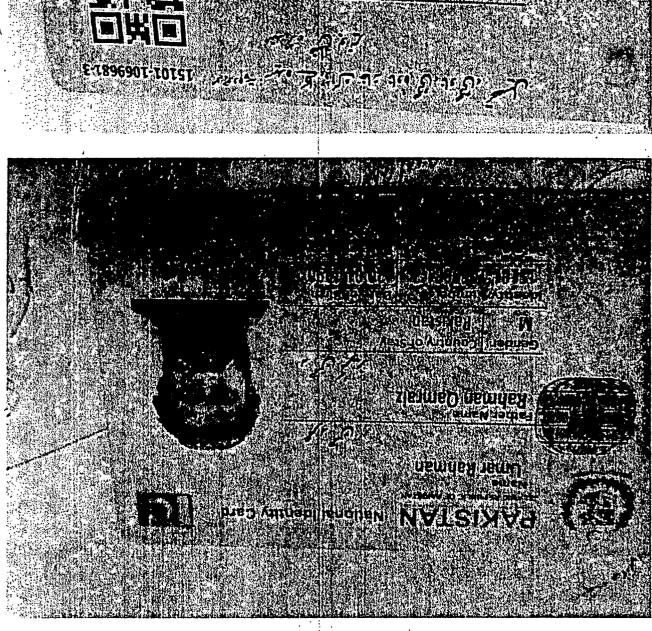
<u>AFFIDAVIT</u>

I, Umer Rehman Ex-FC No.5605, District Bunir, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

D E P O N E N T CNIC#15101-1069681-1 Cell#



HUNEX TH







Office of the Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawai





Date:

24/06/2021

ORDER

This order will dispose of the departmental proceedings against Constable Umer Rehman No. \$605. (Platoon No. 104) of District Police Bunir now on deputation to Elite Force - Khyber Pakhtunkhwa.

He was charged in case FIR No. 145, dated 09.04.2021 13/S 496-A PPC PS Swari City Buner and also remained absent from lawful duty without any leave or prior permission w.c.from 06.04.2021 to 14.04.2021 (Total 08 days).

In this regard he was suspended and Charge Sheet alongwith summary of Allegations were issued to him by this office vide No. 3442-48/EF, dated 13.04.2021 and Acting DSP Elite Force Malakand was appointed as enquiry officer. The Enquiry Officer conducted the enquiry proceedings and submitted his report that the defaulter official has establsihed illiet relationship with his brother wife and Mis. Nihar Bibi recorded her statement that she want to marry with him. Their CDR was perused which shows both were in contact and developed relation, which is against the islami shariat and pashtoon culture. The brother wife is just like a sister and his that act is non islamic, ill diseplined and illegal. The Enquiry Officer has recommended that his absence period may be treated as leave without pay and enquiry against him may be kept pending till the decision of court.

Therefore, I, Muhammad Hussain, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, impose major penalty of DISMISSAL from service upon the defaulter Constable under Police Rules 1975 (amended 2014)..

However, his absence period i.e 08 days is treated as leave without pay Order announced!

> Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:-

District Police Officer, Bunir for information.

Superintendent of Police, Elite Force HQrs: Peshawar.

Acting Deputy Superintendent of Police, Elite Force Malakand Region.

Supdt: Accounts, Elite Force Khyber Pakhtunkhwa Peshawar.

Elite Force Khyber Pakhtunkhwa Peshawar.

KoloASI/SRC, Elite Force Khyber Pakhtunkhwa Peshawar.

VG Elite Force along with complete enquiry file Enls: (35) pages.



ANNEX C زل يوليس موبه خيبر پخونخواه فارم نبرس تمانے روائی کی تاریخ دوقت کو آون م فی فروره می میآن ۱۹ فرد می ماری رف میره مندا بوم ای نوف چاک د می معرفی مین دنده می دی حاسا به مر عبر المحال ا

دوره می و سار مستن مده و مار فرار مستن المراس می و مار فرار مستن المراس می معرفر المرافع 10 - 10 4 40 4 is

ANNEX !!



Cince of the Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar



Dated: 8 / = 2/ 2022



ORDER

This order will dispose of the appeal submitted by Ex-Const: Umer Rehman No. 5605 against his major punishment of dismissal from service awarded to him by Deputy Commandant/Elite Force on 21.12.2020 vide order No. 15739-47/EF.

Brief facts of the case are that:

He was charged in case FIR No. 145, dated 09.04.2021 u/s, 496-A PPC, PS Swari City, Buner and also remained absent from lawful duty without any leave or prior permission w.ef. 06.04.2021 to 14.04.2021 (Total: 08 days).

Subsequently, he was issued Charge Sheet & Summary of Allegations and Acting DSP/Elite Force, Malakand region was nominated as enquiry officer and after going through all the proceedings the enquiry officer reported that the delinquent official had illicit relationship with the wife of his brother and their CDR was also checked which showed that both were in contact and had developed relationship. The enquiry officer recommended that his enquiry may be kept pending till final outcome of court under Police Rules Chapter-16, Para-02(II).

Hence, the Deputy Commandant/Elite Force, Khyber Pakhtunkhwa keeping in view all the facts and circumstances imposed major punishment of dismissal from service.

Now, he has preferred the instant appeal for re-instatement into service before the Addl: IGP/Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

The undersigned being competent authority keeping in views the situations and circumstances of the case called him in OR but he could not offer any cogent reason for his involvement in such like immoral activities. Being a member of discipline force he earns a bad name for the Department and he acquitted through family compromise, hence, his appeal is hereby rejected and there is no place of such like person in the department.

Order announced!

(MUHAMMAD WISAL FARHARSULTAN)PSP

Addl: IGP/Commandant Elite Force Khyber Pakhtunkhwa Peshawar

No. 1303 - 1301/EF

Copy of above is forward for information and necessary action to the:-

1. Superintendent of Police, HQrs: Elite Force, Peshawar.

2. RI/Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.

3. S.R.C/FMC/OASI, Elite Force Khyber Pakhtunkhwa Peshawar.

4. Ex-FC Umer Rehman No. 5605, through Reader DSP/ HQrs Elite Force Peshawar.

where



Blecho

عاجزانه الهاس كى طاقى مع كه سى سمى عمروهان فلروهان فهر ماكن ناواً بن سال (8008 مس فكم لولس من كارق بوا الديم مراك سال لوكم نها من الماركاري، ملك العرفالفشان يد شرائحام دى. اور تهي هي المسران بالاكوسك کامو تھے میں قلا ر 2010ء کے سوائے اہر لیٹن عیس کارور کھٹر لیا اور عوام کی جان وہ ا اور وطن عزیز کی ا من کی خاطر اپنی حان کی ہرواہ کئے لغیر کی تور طریقے سے دو کی سرانجام دنیاریا. "سری خلاف گانه سی سواری لو ندر عین مفاج در ۱۶ اصر مول وك مرى شارى لىشرى قىرى مسالة ئهارى كى كىسا تقريرى تى، اور مسهالة ئهارى كى كوس لبندها. لكن الك والدبن راجي نبس تھے. أور ني ون كلير ع ناطع ا ن كولم لظرسے دیکھا جا سکتاہے. جوکہ عنبر ظالونی اور عنبر سٹرعی کام نیں ہے. اور لسیدکی شارى قانون اور سريعن كا كاظ سے جائز ہے. ليكن اسكى بوعكس مسماع كما عوالدا مرزاده نے مری فلان مقورے رصر کے عمی عوالی سیس سے BBA کے کان میں تفیق ا فسرکو لفاع نام اور میروان BBA می کرے اسک علاق سماع ہمارہ تھی کے عی عمالات کے روبرو بیان دیا۔ کہ عمر دو لوں نے لیسر کی شادی کی ہے۔ فقاع میں تفایش مکل ہونے کے بعد عادلات میں دوران سماعت علان في اعزت الورام الرى كرديا. سي نے كوئى عنبر فالون أمر سرعى كام نهى كايد ، اورنه بى كوفى اسا كام كايد وكم الكيم لولس كى برنا فى كا ماعات ين بزرى درنواستِ عا فرانه الماس كى فانى، كه من سائل كو فحكمه لولس مس الله وي كا علم جار عزماكر سائل يًا صارت و ما كورج كا.

> عررهن فلرزهان فهربر ساکن ناواکی مهلو سرر-موما تیل که - اله 4504321 موما تیل که - اله 15/01-1069681-3

> > ATTESTEU

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Umer Rehman No. 5605. The petitioner was dismissed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 6617-25/EF, dated 24.06.2021 on the allegations that he was charged in case FIR No. 145, dated 09.04.2021 u/s 496-A PPC Police Station Swarit City Buner and also remained absent from duty w.e.f 06.04.2021 to 14.04.2021 for 08-days. His appeal was rejected by Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order Endst: No. 1302-09/EF, dated 08.02.2022.

Meeting of Appellate Board was held on 27.10.2022 wherein petitioner was heard in person. Petitioner contended that he was acquitted u/s 249A Cr.PC by the court of Senior Civil Judge, Buner vide judgment dated 24.01.2022.

Perusal of enquiry papers revealed that the allegation against the petitioner was proved during enquiry. He has brought a bad name for Police Department. His conduct was detrimental to discipline and his further retention in Police is bound to negatively influence discipline of other personnel of the force. He was acquitted on compromise basis. During the proceedings, he could not submit solid evidence of his innocence. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd

(MUHAMMAD ALI BABAKHEL) PSP (UNPM, NSWC)

Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar

No. S/ 2614-20 /22, dated Peshawar, the 4-11 /2022

Copy of the above is forwarded to the:

- 1. Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar. One Service Roll and one enquiry file (50-pages) of the above named Ex-FC received vide your office Memo: No. EF/SRC/S.Record: 2764, dated 11.03.2022 is returned herewith for your office record.
- 3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
- 5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 7. Office Supdt: E-IV CPO Peshawar.

(IRFAN ULLAH KHAN) PSP AID As addishment, For Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

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ALEGER

(15)

Before the Additional Inspector General of Police, Elite Police Force of the KP Province, Office at Peshawar.

Subject: Department Appeal u/s 11 of the Police Rules 1975 [Amended 2014] againstorder of dismissal from service of the appellant passed by the learned Deputy Commandant, Elite Force

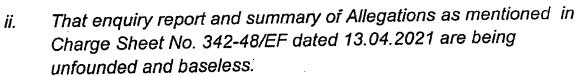
KhuberPakhtunkhwa Peshawar No. 6617-25/EF

Dated24/06/2021.

Very respected sir,

The appellant submits as follows:-

- 1. That he was serving as a has been dismissed from service vide the impugned order passed by the learned Deputy Commandant, Elite Force of KP Province Peshawar of dated 24/06/2021.
- 2. That the impugned order [Copy attached] is against law and facts and therefore is liable to be set aside inter alia on the following grounds amongst other:-
- i. That appellant is innocent and charges leveled against him have never been proved.



iii. That trial of the appellant's case has not been concluded as yet and prosecution case is full of doubts.

iv. That Enquiry Report is based on surmises and appellant has not been given a fair opportunity to place his defense. Appellant has been condemned unheard.

v. That Order of Dismissal from Service of the appellant has no foundation and the same is against law and facts.

vi. That the prosecution story is one sided and there is no proof of involvement of the appellant in commission of the offence.

vii. That authority has exercised his powers without applying a judicial mind, even Enquiry Officer had not recommended the punishment as announced by the Authority.

In light of the above mentioned facts and circumstances, it is humbly prayed that, On acceptance of the instant, all allegations and enquiry report may be declared as null & void and similarly, the impugned order of Dismissal from Service may kindly be set aside, and appellant may kindly be reinstated back in service.

Any other relief, which is based on justice may be passed in favor of the appellant please.

Appellant

Dated:_____ /07/2021.

[UmerRehman].

ATTESTED

صغرمهمين في PW.03 بیان آمیرزاده ولانوام مسان واژی دیر مالے بر کے مالے بر کے لوین م مرحلنے بیان کیائے مدرض المحد ہاہ 70 کوائی سی سما تہ ہمارہ کی کوے نظانے کی راور طرمقانے کی سوادی سے کراری ہی میری بٹی کی مندی لؤیباً درسل هَا صِمى مَعْمِعِ النَّهُ ولد فَهُم لِنَ سَالَتَ مَا وَآفَى كَسَاتُو مِرْسَرِ لِعَهْمُرَكُ يهو في تقى. منز كوره سميع المذبيرون من سمورى زب س بسلم محت سرده ی مقیم ہے۔ وضرام ی قاحال رفعی بیری یون فی مزاردہ سعيم الله كى بردسى عرف كرساتو دفترا م كراجا ز لسات ١ ستوارس ك عجم الملاعملى كرد فترام مركور عرم في مركور ا تر مالقًا فود ، في ر نا وأي جا ولي ك للم زان بي مكل تستی ولورلوت الورلوبی ہوا ہے دختر ا) کو غرره و لرحم رکسی ن ناجائز تس / ننادی رجان ی خاط ورنول دفید لا در انوادی، سى مزكوره لحرد فل ك علاق د كويرارس -الملاند يه درست يه ق يس د قويم كا وغري كواه يس برى ر

(2) (18) PW-03 ع ذ كرنين كرجوار و مردست ي عي فريش كرماس علاملا شراب فأس فور رام) نام برعطعاً ال عدد است صفور مان مو مرى رمانى لوك المراضا نه يرك يردست المح ومشرام ساه نبارنسان توبر سيح الله بزرلم عمالك و ري شيخ نمال مامل) يع. مدرست ع و دفير المنافومين عناد میاے اور اے دولوں بطور میاں بھی آبادیں۔ سُن حردرست لمبلم دِما

ANNEX. G 45 minorias Pw.o4 مان عام شاین زوج آمیرزاده معرد ۱8/47 ا تاس مرکوم فی لویر برحلف میان کیاکم مروز وقوم میری بی ز سن 6/7 سال قو شريه مخار هي سين متركور. كو U HB وي سرائ سلاعما لم 1 ر في على جيا برمز كوريه الانسالم جال می جاری فی ح اسی استاء یم خاو نرای نیم نیم و مولی فون الحلاء دی کے رضر الم سماقہ نیاری کافر ورے نائب ہے معلومات رئے سی لوری فور بر دو فور عمی فعلل زنس تعاس نے اس کردسیوں ے صفاوما سے کہ تحاس در ا اسلام وفترام سلوی کی بی نے قعے کیا کے وہ ایخد لو بخر میں نے ای سا تھ بررلع سو برسا تھے۔ وارکے کے تی ہے . لیداز تستی وصلومات حن برصام برا نے دفترام نیار بی صی کی عیمالشہ عنفان سرحكى ع كاد لو (ش عرره ف لدسرهم لش سان نا دا في فاجاز تعان ت ر شادی ر رواند کا خا ارا نواد ک بی سی مردمن

مزكره ك خلاف دعويرا، و يول. 25-125.02 (5-012 1-50) 250 Pergo Ch. - XX بوزر قوی سات سلولی سکول تی تی - بیرورث ہے تھارے デアルションラージーではからしているい。 عرالت فورمن تو بری (ئے تو ہیں کون اسرامی ش رورستالي عا-19.01.2022

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19	(SUP	ANNEX	H"
بإنتان			گامی حکومت
يانيوم Dale: <u>1-11- 2019</u>		ضلح خطر عرط عرط	329 329
<u>V</u>	والصلواة والسلام على سيد الانام وعلى المام وعلى المام وعلى المام على سيد الانام وعلى المام وعلى المام وعلى الم خلقكم من نفس واحدة وخلق منها زوجهاوبث م	الله تعالى يا ايها الناس انقور بكم الذي	نقد قال ا
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(23)

لم فاعمال قرامين كارويش كارويش 1961 (المعم 1961) كالت والمعالية ہوئے آوامدے قاعدہ فمیر8اور فمبر 10 کے تحت کوزہ لکام کی تعدیق کی جاتی ہیں المَسْدُ لِلْهُ اللَّّى جَعْلَ الذَّكَاتَ سُكُّهُ الإسلامِ وَالسُلوةُ وَالسُّلامِ هَلَى سَيِّدِ الآثامِ وَهَلَى الْهِ وَالْسِيحَانِهِ الْعِزَالْكُرامِ गुप्त कर हम होर मेर क्यां कि क्यां कि मार र भी भी राज द्या मेर्स कह को श्रीराहण र भुक्तिय को की मिन्नी कि इस मेर्स देंग وقال الني تلفظ الحكارم من تن نن رغب من تن لليس من الحديث توى شاخى كارد نمبر ـ توى شاخى كارد نمبر <u>3-1891-3 15602.03</u> وستخطا والمكونى كانشان نكان مرانجا بإن ك كارئ مراجع مر مرانجا بإن توليمون مثل مزيل نكاح درج رجو كراني كالراح -

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hig in the less for the shall (18/ 0-12 Silvidia 496# P. 9 4 P. 145 June 805(5) JM B Mikher i John of 249 to Senior Civil Judge Judgland, Buner at Daggar. مراعم المراس مع المرام المراس من مادي فرين ! درواده زم عرب و 3 1/2 six 1/4 / 1/2/2 1/6 الله المراد الله المراد تعمر ميما = الفار مولود عي. ول يما مرا كراد لكان كل جارا مردار برار و مرموري مرفيه TRUE COPY. 81,39 410148 610 12 610 18 61. 18. Ca) 3 41,010 161. 18. دى يَرْ مَوْرْ زِيرالدُ كَارْ رِيرُوارُ لَازِ الْرَيْدِي مِ اللَّهِ بِي أَرْبِهِ كُور اللَّفَاحِير. رف رو روز المراف المالي المالي من المالي من المراف المرافي الم 416:01 114 1:3 4 B MISUNIU كاندن دريان ولئن الله علاء علا المنظم الألداد الأراد الأراد الله درستاله عليه ppkfvejjó ilpjív 1480 19 in 9 E JUNIOUN BY ESTED na:0.1871705

ORDER-13 24.01.2022

Learned APP for state, complainant in person & accused on bail present. This order is directed to dispose of the instant case FIR u/s 249-A Cr.PC.

Brief facts of the instant case are that on 07.04.2021 at about 11:30 hours complainant reported the matter to local police that Mst. Nihar Bibi is his daughter and some 02 years ago, she was engaged with Samiullah. That the said Samiullah who is abroad in Saudi Arabia and after engagement/nikah, the accused/Umar who is the brother of said Samiullah used to visit the house of complainant. That some illicit relationship got developed between said Umar and his daughter Mst. Nihar. That on the day of occurrence at 10:30 hours, he was informed that his daughter/Mst. Nihar Bibi had gone out of his house and has

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gone to Nawagai with the accused/Umar. Resultantly, the report of complainant was lodged in shape of Mad no. 18 and instant FIR was got registered against the accused.

After submission of challan, accused was summoned, charge was framed to which he denied and claimed trial. Thereafter, statement of as many as 04 witnesses were recorded and thereafter, accused filed application in hand for his acquittal u/s 249A Cr.PC.

Arguments heard and record perused.

Section 496-A PPC comes into play only when someone takes away any woman with intent to have illicit intercourse during lifetime of her husband. Though complainant stated that nikah of Mst. Nihar Bibi was performed with Samiullah, however, complainant/PW-03 during examination in chief admitted that only engagement ceremony of Mst. Nihar Bibi was performed and rukhsati was not affected between them. From the contents of FIR, it further transpires that complainant himself stated that only the engagement of his daughter was performed with Samiullah. In law, Nikah is marriage, it is the most common way of marriage in Islam. It is the legitimate contract signed by the bride and the groom before entering the marriage with their acceptance. Engagement is called Khitba in Arabic. It simply implies that the man has promised to marry the girl. Engagement is the pre-stage of marriage and nikah is the final marriage. Engagement is the period between proposal and

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The State VS Umar Rehman
FIR No. 145 of 2021 u/s 494-A PPC PS City Sowari.

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0- 13 Cont. marriage. Engagement may break off, but it will not be considered as marriage. A woman after breaking engagement can marry the one, she wants. But breaking marriage leads to divorce.

PW-03/complainant admitted during his cross examination that neither he nor his wife is the eye witness of the occurrence. PW-03 further admitted in his cross examination that Nikah of Samiullah and his daughter has been dissolved through Court decree and now accused and his daughter is living as a married couple. PW-03 and PW-04 (parents of abductee) during their cross examination also admitted that they have entered into compromise with the accused and they have no objection upon acquittal of the accused.

The person with whom allegedly the first nikah was performed also never appeared before the court. It has not been established on record that before marrying with the accused Umar, Mst. Nihar was married to someone else and that accused took the Mst. Nihar for having illicit intercourse. Case of prosecution is full of doubts.

In the light of above-mentioned observations, there is no chance of conviction of accused if whole of the evidence be recorded, therefore, by exercising powers u/s 249A Cr.PC, accused facing trial is hereby acquitted from the charges levelled against him. He is on bail, his bail bonds stand cancelled and sureties are absolved from the liabilities under the bail bonds.

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FEXAMINER

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ED No. 199 FERM

Suit No 45/2 of 2021
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0-13 cont.

Case property be dealt in accordance with law. Case file be consigned after its necessary completion and compilation.

ANNOUNCED 24.01.2022



Date of Application 16-11-622

Date of Receipt of Fin 29-c1-c2

Date of Preparation 16-11-622

Viords 52

Viords Free of Cost

Urgent Fees

Date of Delivery 16-11-622

Signature

/NADIA GUL WAZIR
SCJ/AIQ/Judicial Magistrate
__Buner at Daggar

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Nacila Gui Vvazir, Senior Civil Judge (Judg)/AlQ. Buner at Daggar.

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عروه بنام وهيد	- موزخه مقدمه دعویٰ
	باعث تحرير
بیردی دجواب دی دکل کاردائی متعلقه میرونی و از از موانسی این و از از موانسی این از از موانسی این از از موانسی ا	ا مقدمه مندرجه عنوان بالامين اپن طرف سے داسطے _ آن مقام <u>سطئ عمر </u>
کومقدمه کی کل کار دا کی کاکامل اختیار ، وگا نیز میرحلف دسیتے جواب دہی اورا تبال دعوی اور	مقرد کرک افراد کیاجا تا ہے۔ کدصاحب موسوف کے مساحب کوراضی نامہ کرنے وتقر دالت و فیصل
ارعرضی دعوی اور درخواست برتشم کی تفیدیق میرود کا ما ذکر کی پیکلر فه ملایش کی رس گی می منسوخی کی ایسا	بعمورت دُ کری کرنے اجرام ادر صولی چیک درویہا زمایں پردستخط کرانے کا اختیار ہوگا۔ نیز صورت عد
اختیار موگا۔ از بصورت ضرورت مقدمہ مذکور تانی ای کا بعد کر ازال مدید مرتبہ میں میں	نیز دائز کرنے ائیل محرانی دنظر ٹانی دبیروی کرنے کا کے کل مائیز دی کاروائی کے داسطران کیل ماہری
اختیار موگا۔ از بصورت ضرورت مقدمہ ذکور قانونی کوایئے ہمراہ نیا اپنے بچائے تقرر کا اختیار ختیارات حاصل مول کے اوراس کا ساختہ در مرجان التوائے مقدمہ کے سبب سے وہوگا ساکھ کے اس کا مقدمہ کے میروی	
وكيل صاحب يابند بول محديروى	کوئی تاریخ بیشی مقام دوره بر بو ما صدی با بر بوتو ندگورکری لیبداد کالت نامه که صدیا که سندر ب
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Accepted -ested	به ام
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