BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.15182/2020

Date of Institution ... 09.11.2020
Date of Decision ... 15.09.2021

Mr. Zahoor Ex-H.C District Police, Mardan.

... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunhwa Peshawar and two others.

... (Respondents)

Muhammad Amin Ayub, Advocate ... For Appellant.

Asif Masood Ali Shah, Deputy District Attorney ... For Respondents.

AHMAD SULTAN TAREEN ... CHAIRMAN
ROZINA REHMAN ... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that appellant was inducted in the Police Force as Constable. While performing duties at Special Squad Police Lines Mardan, he was suspended from service on account of departmental proceedings. He was charge sheeted and an inquiry was conducted into the matter, where-after, major penalty of dismissal from service was imposed upon appellant. He filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Muhammad Amin Ayub Advocate appearing on behalf of appellant and Asif Masood Ali Shah learned Deputy District

Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the appellant was not treated in accordance with law, rules and policy and that the respondents acted in violation of Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He contended that the appellant neither misused his official authority nor entered into the house of Khaista Rehman which is evident from the record and that complainant of case admitted the presence of appellant outside his house. That a false and concocted F.I.R was registered against the appellant and his wife. That mandatory requirement of law in shape of issuance of show cause notice was violated as no show cause notice was ever issued to the appellant and that in utter violation of law and principles of natural justice, after the first inquiry report, the second inquiry was clandestinely conducted at the back of the appellant and he was recommended for major punishment. That no notice was served upon the appellant nor reasons were shown as to how the first inquiry report was rejected and second inquiry was conducted and as to who was the Inquiry Officer as copy of the Inquiry report was not provided to the appellant. He submitted that neither regular inquiry was conducted nor any evidence was recorded in presence of appellant and that proper opportunity of defense was not given to the appellant. Lastly, he submitted that he was proceeded against departmentally on the allegations that he was involved in case F.I.R No.589 dated 12.07.2020 and that was the only stigma but the appellant was acquitted by competent court of Law, therefore, the impugned orders may kindly be set aside.

4. Conversely learned Deputy District Attorney submitted that appellant while posted at Special Squad, Police Lines Mardan, was placed under suspension on account of involvement in case F.I.R No.589 dated 1207.2020 at Police Station Saddar, Mardan. On account of the aforementioned allegations, he was issued charge sheet with statement of allegations and inquiry was entrusted to D.S.P Headquarter, Mardan. He contended that Inquiry Officer during the course of inquiry, provided all lawful opportunities to the appellant to produce evidence in his defense but fiasco and that after fulfillment of all codal formalities, report was submitted and appellant was rightly dismissed from service.

5. From the record, it is evident that appellant Zahoor khan Ex-Head Constable of Mardan Police was proceeded against departmentally on the allegations that he while posted at Special Squad, Police Lines, Mardan was involved in F.I.R No.589 dated 12.07.2020 U/S 452, 354, 506/34 P.P.C Police Station Saddar, Mardan. The impugned order of District Police Officer Mardan is available on file which clearly shows that appellant was proceeded against departmentally through Mr. Gulshad Khan D.S.P Headquarter, Mardan and accordingly he was awarded major punishment of dismissal from service vide O.B No.1599 dated 17.09.2020. The inquiry report submitted by D.S.P Headquarter, Mardan is available on file as "Annexure-C" and this inquiry was conducted vide office No.318/PA dated 13.07.2020. The Inquiry Officer recommended temporary reinstatement of appellant till the Court decision. The entire record is silent as to why this inquiry report was not taken into consideration and as to how another order was passed for second

inquiry. The statement of allegations available on file bearing No.318/PA dated 13.07.2020 shows that one Shakeel Ahmad D.S.P Headquarter was also nominated as Inquiry Officer. The respondents miserably failed to prove the service of charge sheet and statement of allegations upon the appellant and his association in the inquiry proceedings conducted by Shakeel Ahmad D.S.P.

6. As discussed earlier that the only allegation against the appellant was his involvement in the criminal case but the appellant was acquitted in the criminal case registered against him vide F.I.R No.589 by the competent court of Law on 06.04.2021.

7. It has been held by the superior fora that all the acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in the criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared, therefore, his acquittal, made him re-emerge as fit and proper person entitled him to continue with his service.

8. For what has been discussed above, we allow this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
15.09.2021

(Ahmad Sultan Tareen)
Chairman

(Rozina Rehman)
Member (J)

Order

15.09.2021 Counsel for appellant present.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Khyal Roz Inspector for respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, we allow this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

Announced.
15.09.2021

(Ahmad Sultan Tareen)
Chairman

(Rozina Rehman)
Member (J)

10.03.2021 Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Khayal Roz, Inspector (Legal), for the respondents present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking time for submission of written reply/comments. Request is accepted and time allowed. Case to come up for written reply/comments on 20.04.2021 before S.B.

(MIAN MUHAMMAD)
MEMBER (E)

20.04.2021 Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 20.05.2021 for the same as before.

Reader

20.05.2021 Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.07.2021 for the same as before.

Reader

07.07.2021 Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Khyal Roz, Inspector for the respondents present.

Respondents have furnished reply/comments. The appeal is entrusted to D.B for arguments on 15.09.2021.

Chairman

11.01.2021 Mr. Muhammad Amin Ayoub, Advocate, for appellant is present.

It was contended by learned counsel representing appellant that being inducted in to Police Force appellant rendered his duties to the whole satisfaction of his superior officers while acting and performing duty at Special Squad Police Line, Mardan, his services were placed under suspension on 13.07.2020 consequent upon the commencement of disciplinary proceedings followed by issuance of charge sheet and statement of allegations. Appellant did not conform to the allegation leveled before the competent authorities. Inquiry was conducted and it was recommended by the inquiry officer that keeping in view the pendency of criminal case in the court of law the service of appellant be ~~may~~ temporarily reinstated till the decision of court. Expecting some reasonable actions the competent authority clandestinely constituted another inquiry whereby he was recommended for awarding of major punishment, he was not associated in the process and course of inquiry proceedings, the departmental appeal moved to the Regional Police Officer, Mardan Region, Mardan, proved abortive, hence, the present service appeal.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 10.03.2021 before S.B.

Appellant Deposited Security & Process Fee

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15182 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/11/2020	The appeal of Mr. Zahoor Khan resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 11/01/2021 CHAIRMAN

The appeal of Mr. Zahoor Ex-HC District Police Mardan received today i.e. on 09.11.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexre-L of the appeal is illegible which may be replaced by legible/ better one.

No. 3807 /S.T,

Dt. 09/11 /2020.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

نوٹ: کال!
درشتی کی تاریخ ایوارڈ عرض ہے

26/11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No._____/2020

Zahoor..... ..... Appellant

Versus

The PPO and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Charge Sheet		A	7
3.	Reply to Charge Sheet		B	8-9
4.	Inquiry Report	27.08.2020	C	10
5.	Impugned original order	21.09.2020	D	11
6.	Departmental Appeal	22.09.2020	E	12-14
7.	Impugned appellate order	12.10.2020	F	15-16
8.	Roznamcha Naqal Madd	05.07.2020	G	17-18
9.	F.I.R No.589		H	19
10.	Statement U/S 164 Cr.P.C	27.07.2020	I	20
11.	Statement U/S 161 Cr.P.C	17.07.2020	J	21
12.	Affidavit		K	22
13.	BBA confirmation order	20.08.2020	L	23
14.	Certificates		M	24-27
15.	Naqal Madd No.28 by Mst. Shagufta		N	28
16.	Wakalat Nama			29

Appellant

Through

Khaled Rahman
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: ____/11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15782 /2020

Mr. Zahoor
Ex-HC,
District Police, Mardan ..... **Appellant**

VERSUS

1. **The Inspector General of Police**
   Khyber Pakhtunkhwa, Peshawar

2. **The Regional Police Officer,**
   Mardan Region, Mardan.

3. **The District Police Officer,**
   District Mardan ..... **Respondents**

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.09.2020 WHEREBY MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 ON 22.09.2020 BUT THE SAME WAS UNLAWFULLY REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 12.10.2020.

PRAYER:

On acceptance of the instant appeal, the impugned order dated 17.09.2020 passed by Respondent No.3 and impugned appellate order dated 12.10.2020 passed by Respondent No.2 may graciously be set aside/modified and appellant may be re-instated into service w.e.f. 17.09.2020 with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was employed in the Police Force as Constable way back in the year 2009 and has rendered meritorious service for the Department.

During service, the appellant has never been departmentally proceeded against and even a minor penalty has not been imposed upon him so far, thus the service of the appellant remained unblemished and spotless throughout on the basis of the same he was promoted against the post of HC.

2. That the appellant while performing duties at Special Squad Police Lines Mardan, was suspended from service on 13.07.2020 on account of departmental proceedings. Later on, he was issued Charge Sheet and Statement of Allegations (***Annex*:-A**) for the reasons mentioned therein. Since the charges were unfounded, misplaced therefore, appellant refuted the same and furnished a detailed reply (***Annex*:-B**) explaining his position before the Competent authority. (Copy of the reply may be considered as integral part of this appeal.)

3. That thereafter an enquiry was conducted into the matter by the Deputy Superintendent of Police HQrs, Mardan on 27.08.2020 (Inquiry Report ***Annex*:-C**) by holding that:-

RECOMMENDATION:-

> ***"Keeping in view of the above facts and findings and after thoroughly examined the attached statements of the all relevant, DD Report and copy of FIR revealed that case is already under trial in court and on 26.08.2020 BBA of the alleged HC Zahoor No. 2646, has been confirmed by the honorable learn court of ASJ-II.***
>
> ***Therefore, the alleged Constable may temporarily be reinstated, till the court decisions, if agreed.***

Thereafter report ibid, was then submitted to the Competent Authority and appellant was predicting a favourable decision from him but to his utter bewilderment reportedly the Competent Authority got conducted another inquiry clandestinely wherein the appellant was allegedly recommended for major punishment of dismissal from service. Neither the appellant was associated with the inquiry nor inspite of repeated requests, the report of the

so called inquiry was provided to the appellant.

4. That without issuing the Show Cause Notice, appellant was imposed upon major penalty of dismissal from service vide impugned order dated 21.09.2020 (***Annex*:-D**) against which he preferred Departmental Appeal (***Annex*:-E**) to Respondent No.2 on 22.09.2020 who by means of impugned appellate order dated 12.10.2020 (***Annex*:-F**) unlawfully rejected the same.

5. **That** appellant, being aggrieved of the impugned orders ibid, files this appeal, inter-alia, on the following grounds:-

Grounds:

A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.

B. That it is momentous to aver that on the day of incident neither appellant misused his official authority nor he entered into the house of Khaista Rahman which is crystal clear from the contents of Daily Diary No.23, dated 05.07.2020 (***Annex*:-G**) wherein complainant himself admits that appellant did not enter his house rather he was standing outside of the house. Subsequently a false and concocted FIR No.589 (***Annex*;- H**) dated 12.07.2020 U/S 452, 354, 506, 34 was chalked out against the appellant and his wife Mst. Iqbala wherein it was wrongly alleged that on the day of occurrence the appellant and his wife had entered into the house of Complainant and forcibly took away his wife Mst. Shagufta (Sister-in-law of appellant). Moreover, on the day of occurrence Mst. Shagufta wife of complainant insisted upon the appellant to register a case against one Murad brother-in-law of her husband because he was instrumental in causing strained relations between Mst. Shagufta and her husband (Complainant). It would not be out of place to put here that Mst. Shagufta Rahman has recorded a Statement U/s 164 (***Annex*:-I**) before the learned Judicial Magistrate, Mardan on 28.07.2020 and also gave a statement U/S 161 P.P.C (***Annex*:-J**) on 17.07.2020 wherein she categorically conceded that she had visited the house of her sister Mst. Iqbala on free will rather her husband (Complainant) himself permitted her. After registration of the

F.I.R, the appellant alongwith his wife filed a BBA Application in the Court of learned Additional Session Judge, Mardan wherein Mst. Shagufta Rahman also executed an Affidavit (***Annex*:-K**) exonerating the appellant and his wife on the basis of which the BBA was confirmed vide order dated 20.08.2020 (***Annex*:-L**).

C. That the appellant was not issued Show Cause Notice which is a mandatory requirement of law and without issuing such Show Cause Notice the passing of the impugned penalty is highly arbitrary, unlawful and hence cannot be sustained under any canons of law, justice and fair-play. Thus the impugned orders are against the principle of natural justice and hence liable to be brushed aside.

D. That in utter violation of the law and rules and principle of natural justice after the first Inquiry Report, the second Inquiry was clandestinely got conducted at the back of the appellant and the appellant was got recommended for major punishment. No Notice was served upon the appellant nor the reasons are known to the appellant that how the first Inquiry was rejected and second Inquiry was conducted and that who was the Inquiry Officer as copy of the Inquiry Report has also not been provided to him. Such being the case, the appellant has been highly prejudiced and the impugned order appears to be the result of pre-determination and pre-set mind and hence not sustainable.

E. That neither regular inquiry was conducted into the case in hand nor any documentary or oral evidence was recorded in presence of the appellant nor was he provided opportunity of cross-examination. The entire action was taken at the back of the appellant and thus he was condemned unheard. It is a settled law that where a major penalty is to be imposed then regular inquiry is necessary which has not been done in the case in hand. Even the copy of the second Enquiry Report was not provided to appellant, which was mandatory in law.

F. That Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section-16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides for the right of fair trial as per prescribed law and Rules. Even the second Enquiry Report was not provided to the appellant which

was the mandatory requirement of law and also appellant was condemned unheard, thus the impugned orders are void, ab-initio as well as against the principle of natural justice.

G. That instead of a regular enquiry, an irregular, fact finding second enquiry was conducted although appellant was exonerated in the first Inquiry Report. In the second inquiry, the Inquiry Officer in a highly pre-judicial manner and without any evidence drew the conclusion on the basis of mere surmises and conjectures declaring charges as proved in utter deviation of the procedure and Rules on the subject which has resulted into serious miscarriage of justice.

H. That it is a settled law that mere registration of an F.I.R cannot be taken as a Gospel truth inas much as the allegations have to be established in the competent court of law and until then the accused is presumed innocent. In this view of the matter C.S.R 194 mandates that a civil servant who is charged for a criminal case and is arrested is to be deemed as suspended and until finally convicted by the competent court of law, mere on the basis of F.I.R he cannot be dismissed from service. The appellant has already been granted BBA by the competent Court and has not been convicted for the offence. In this view of the matter, the impugned order is highly arbitrary inas much as the appellant was kicked out of service on the basis of unconfirmed and unproved allegations.

I. That no meaningful opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor by the Inquiry Officer nor by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.

J. That the appellant served the Department for long 11 and during this period, the appellant has never been departmentally proceeded against nor even a minor penalty has ever been imposed upon him, thus the service of the appellant remained unblemished, spotless throughout. It is pertinent to add here that appellant has been awarded long ATC Course Certificate wherein he got first position in Pakistan. He also qualified another short

ATC course and ATS Course vide Certificates (***Annex*;-M**) and was also commended by the DPO, Mardan. Furthermore, appellant was seriously injured in a terror attack at Par Hoti, Mardan in which Inspector Mazhar Shah Khan embarrassed martyrdom, resultantly four terrorist terrorists/attackers were succumbed to death pursuant to which appellant was commended and awarded a cash prize by the IGP (Naqal Madd No.28 by Mst. Shagufta ***Annex*:-N**).

K. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Appellant

Through

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court

Dated:___/11/2020

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

-7

Annex

2020

CHARGE SHEET

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge HC Zahoor No.2646, while posted at Special Squad Police Lines, as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

ATTESTED

A

Annex B

-B

انکوائری جواب

جناب عالی!

بحوالہ چارج شیٹ نمبری PA،318 مورخہ 13.07.2020 مجاریہ جناب DPO صاحب معروض خدمت ہونکہ من ہیڈ کانسٹیبل 2009 کا بھرتی شدہ ہوں۔ 2012 میں بحیثیت گنر SP صاحب آپریشن بمقام ایران آباد شاہ ڈھنڈ بابا پولیس مقابلہ میں لگ کر شدید زخمی ہو چکا تھا چونکہ اللہ رب العزت نے نئی زندگی دیکر اپنی ڈیوٹی فرض شناسی اور ایمانداری کیساتھ کر رہا ہوں اور پولیس لائن کے ایک فیملی کوارٹر میں اپنے بال بچوں کے ہمراہ رہائش پزیر ہوں۔ کچھ عرصہ قبل میرے سسر اور ساس نے من سائل کو بتلایا کہ اپنی سالی کیلئے مردان میں کوئی اچھا سا رشتہ ڈھونڈ کر اس کی شادی کروالو تا کہ ادھر مردان میں من سائل اور من سائل کی بیوی سالی ام مسماۃ شگفتہ کا خیر خبر لے سکے جس کے بعد من سائل اور زوجہ ام نے خائستہ رحمان ولد عبدالرحمان سکنہ گلی باغ حال پشاور ماڈل سکول شادی طے کرلی اور مورخہ 13/14 جون 2020 سالی ام مسماۃ شگفتہ کی شادی مسمی خائستہ الرحمان سے بشرعی محمدی کیساتھ ہوکر مورخہ 15.06.2020 کو زوجہ ام نے حسب رواج اپنے دلہن بہن کیلئے چائے روٹی کر کے من سائل کے ہمراہ سالی شگفتہ کے گھر چلے گئے جہاں پر سالی شگفتہ، سالی کا شوہر مسمی خائستہ الرحمان اور دیگر اہل خانہ کے موجودگی میں کچھ دیر وہاں ٹھہر کر اپنے گھر کیلئے واپس روانہ ہوئے جیسے ہی اپنے گھر پہنچے تو سالہ ام شیر افضل نے حضرو سے بذریعہ موبائل فون من سائل سے رابطہ کر کے بتلایا کہ شگفتہ کے گھر میں کیا مسئلہ ہے۔ وہ رو رہی تھی کہ سسرال والوں نے شگفتہ کیساتھ کیا کیا ہے۔ تو فوراً سائل اور زوجہ ام سالی شگفتہ کے گھر پہنچ کر من سائل تھوڑے فاصلے پر کھڑا ہوکر جبکہ زوجہ ام اپنے بہن مسماۃ شگفتہ کے گھر خیر خیریت دریافت کرنے کیلئے مکان کے اندر چلی گئی۔ کچھ دیر بعد سالی مسماۃ شگفتہ اور زوجہ ام باہر نکل کر سالی ام رو رہی تھی اور رپورٹ درج کرانے کیلئے متعلقہ پولیس اسٹیشن جانا چاہتی تھی۔ من سائل نے سالی شگفتہ کو کافی سمجھایا مگر نہیں مان رہی تھی اور اپنے شوہر خائستہ الرحمان کے بہنوئی مراد کے پیچھے بددعائیں دے رہی تھی۔ من سائل نے وجہ پوچھی تو جواباً شگفتہ نے بتلایا کہ مسمی مراد میرے اور شوہر کے مابین بے اعتمادی پیدا کرنی کی کوششیں کر رہا ہے اور میرا گھر برباد کرنا چاہتا ہے۔ مجبوراً من سائل اور زوجہ ام سالی شگفتہ کے ہمراہ متعلقہ پولیس اسٹیشن صدر جا کر سالی شگفتہ نے بحوالہ مد 28 مورخہ 15.06.2020 برخلاف مراد رپورٹ درج روزنامچہ کر کے تب من سائل کو معلوم ہوا کہ معاملہ کیا ہے۔ اسکے بعد مسمی مراد نے خائستہ الرحمان کو ورغلا پسلا کر من سائل اور زوجہ ام کے خلاف جناب DPO صاحب مردان کو ایک تحریری درخواست دیکر جو کہ DSP صاحب سٹی کو مارک ہوکر مورخہ 16.06.2020 کو جناب DSP سٹی نے فریقین کو دفتر طلب کر کے مجاہدہ طے ہوا کہ خائستہ الرحمان کی زوجہ مسماۃ شگفتہ اور من سائل کی زوجہ اور دیگر اہل خانہ 10/15 یوم کے بعد ایک دوسرے کے گھر آنا جانا ہوگا لیکن مردوں کا آنے جانے پر پابندی ہوگی۔ جس پر فریقین نے راضی ہوکر معاملہ ختم کیا۔ مورخہ 05.07.2020 کو زوجہ ام نے اپنے بہن کیلئے رواج کے مطابق روٹی یا کھانے پینے کیلئے اپنے گھر کو کچھ دیر کیلئے آنے کی دعوت دی جس پر سالی نے بتلایا کہ شوہر سے اجازت مانگنے کے بعد آپکو اطلاع دونگی اور کچھ وقت بعد سالی ام نے اپنے بہن زوجہ ام کو بچوں کے زبانی بتلایا کہ شوہر سے اجازت مل گئی ہے مجھے لینے کیلئے آجاؤ جس کے بعد زوجہ ام اپنے بہن کو لینے کیلئے چلی گئی اور اپنے بہن مسماۃ شگفتہ کو ہمراہ گھر ساتھ لے آئی۔ کچھ دیر بعد مسمی مشتاق خان ASI انچارج ARDS نے مجھے بذریعہ فون اطلاع دی کہ SHO صدر سے رابطہ کرو۔

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جس پر فوراً من سائل نے SHO صدر پولیس اسٹیشن سے رابطہ کر کے SHO صاحب نے بتلایا کہ DSP سٹی کے دفتر پہنچ جاؤ۔ من سائل زوجہ ام اور سالی کے ہمراہ DSP سٹی آفس پہنچ گئے۔ DSP صاحب نے صرف من سائل کو طلب کر کے بتلایا کہ کیا معاملہ ہوا ہے۔ من سائل نے بتلایا کہ من سائل کی زوجہ ام نے اپنے بہن مسماۃ شگفتہ کیلئے حسب روایت روٹی کی دعوت دی تھی۔ چونکہ آج زوجہ ام بمطابق معاہدہ مورخہ 16.06.2020 کی پاسداری کرتے ہوئے اکیلے اپنے بہن کو لینے گئی تھی اور اپنی بہن مسماۃ شگفتہ کو ساتھ لے آئی ہے۔ اور کوئی مسئلہ نہیں ہے۔ مسماۃ شگفتہ روٹی کھا کر زوجہ ام کیساتھ گھر چلی جائے گی۔ DSP صاحب نے سائل کی بات نہ سنتے ہوئے من سائل کو کوارٹر گارڈ 5 یوم کیلئے بند کر دیا۔

جناب عالی!

من سائل نے پوری داستان صاحبان کی خدمت میں عرض کی ہے کوئی بات پوشیدہ نہیں رکھی گئی ہے۔ میں ایک مسلمان ہوں شادی شدہ ہوں اور 5 بچوں کا باپ ہوں۔ میرا سابقہ ریکارڈ جملہ پولیس کو واضح ہے چونکہ من سائل کافی سالوں سے پولیس لائن فیملی کوارٹرز میں رہائش پزیر ہوں۔ اپنے ڈیوٹی اور اپنے ڈیوٹی کے فرائض تک محدود زندگی گزار رہا ہوں۔ سالی ام مسماۃ شگفتہ مجھ سے بلحاظ عمر بہت چھوٹی ہے اور میرے بچوں کی طرح ہے۔ اس کے سسرال والے جو گھٹیا سوچ رکھتے ہیں اللہ رب العزت ایک دن ان سے ضرور پوچھے گا۔ آپ صاحبان نے میرے کردار کے مطابق بیشک خفیہ معلومات کرے۔ ایک جھوٹے درخواست کی وجہ سے من سائل کے خلاف مقدمہ علت 589 مورخہ 12.07.2020 جرم 354.452:506/34 تھانہ صدر رجسٹرڈ ہو چکا ہے۔ جسکی وجہ سے سائل کی ازدواجی زندگی اور نوکری خطرے میں پڑھ گئی ہے۔ صرف پولیس والا ہونے کے ناطے مسمیان خائستہ الرحمان اور مراد کے آنکھوں میں چبھتا ہوں۔ اگر من سائل کے کردار میں کوئی فرق ہوتا تو کم از کم سائل کی زوجہ سائل کے ساتھ کھڑی نہیں ہوتی، بے قصور ہوں۔ سائل نے کبھی بھی کسی کی ذاتی معاملات میں مداخلت نہیں کی ہے۔ میرا دامن صاف ہے۔

التجا ہے کہ چارج شیٹ بغیر کسی کاروائی کے داخل دفتر فرمائی جائے۔

المرقوم: _____

العبد _____

ظہور خان (ہیڈ کانسٹیبل) بیلٹ نمبر 2640

رابطہ: 03449167431

ATTESTED

OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
HEADQUARTERS MARDAN.

Inquiry Report conducted vide No. 318/PA. dated 13.07.2020. Annex "C"

BRIEF HISTORY:-

Whereas. **HC Zahoor No. 2646, (now suspended)** while posted at special squad police lines. as per report of DSP city Mardan vide his office latter No. 794/s dated 06.07.2020, complaining wherein that HC Zahoor has misused official power and interference in domestic affairs of one Khaista Rehman s/o Abdu Rehman resident of Nissata Road vide DD report No. 23 dated 05.07.2020 PS Saddar, bringing a bed name for entire police force.

PROCEEDINGS:-

In this connection inquiry proceedings were initiated and the alleged **HC Zahoor No. 2646,** was called. a copy of charge sheet was served upon him and his statement was recorded wherein he stated that. I live in a family quarter of police line with my wife and children earlier my father and mother-in-laws entrusted my sister-in-laws marriage to me in Mardan so that she live in front of us. I along with my wife get my sister-in-laws married with one Khaista Rehman s/oAbdur Rehman r/o Guli Bagh now live in Peshawar model school Mardan. On 15.06.2020 I along with my wife arranged tea party as a custom to my sister-in-laws. When I get back to home I was informed by my brother-in-laws Khizro Attock through mobile phone that Shagufta is shedding tears at her husband home and she is unhappy. Me and my wife went once again to my sister-in-laws house. On reached my wife inter the house while I was waiting outside the house to know about the welfare of my sister-in-laws, After some time they get out of the home and she want to go to police station to report against Murad. I try to to stop her from going to report against Murad in the police station, but she was insisting to go to police station and cursing Murad brother-in-laws of her husband Khaista Rehman. When I asked about the matter she revealed that Murad is trying to create misunderstanding between me and my husband and trying to disturb my marital life. In helplessness me and my wife went along with my sister-in-laws to the concerned police station to report against her Murad, wherein she reported against Murad brother-in-laws of her husband vide DD No.28 dated 15.06.2020 only when I get to know about whole the matter. After that Mr. Murad misguided Kaista Rehman and made him file application against me to worthy DPO Mardan. The application was marked to DSP city and on 16.06.2012 DSP City settled the matter between us is the agreement that my wife and sister-in-laws will not meet before passing 10 to 15 days and men will not be allowed to meet. The decision with mutually consent was signed by both the parties. On 05.07.2020 after the duration my wife invited her sister for meal as custom. She responded that she will take permission from her husband. After that my wife went to her sister home and took her to my home. After some time ASI Mushtaq Khan incharge ARDS informed me to talk to SHO Saddar, who told me to reach DSP city office. I along with my wife went to DSP city office and I appeared before him and stated that according to 16.06.2020 decision. My wife alone went to her sister house for invitation to meal and takes her home. But DSP city did not listen to my words and confined me in quarter guard for 05 days. Whatever I submit above is based on reality and I kept nothing hide from my seniors. Being a Muslim and having 5 kids and living in family quarter in police lines. police know me well and they know my character very well that I am only concern to my duties. Inquiry officer can get secret report from DSB. On false application. FIR No. 589 dated 12.07.2020 U/S 354, 452, 506,/34 PS Saddar was registered against me due to which my service and my marital life has badly been effected. If I was bad character my wife would not stand beside me. I have never been interfered in some one personal matter hence: the charge sheet against me is requested to be filed/consign to record.

Statements of Khaista Rehman and Murad are attached.

RECOMMENDATION:-

Keeping in view the above facts and findings and after thoroughly examined the attached statements of all relevant. DD Report and copy of FIR revealed that the case is already under trail in court and on 26.08.2020 BBA of the alleged **HC Zahoor No. 2646,** has been confirmed by the honorable learn court ASJ II.

Therefore. the alleged Constable may temporarily be **reinstated**, till the court decisions. if agreed.

DSP/Hqrs

ATTESTED

Discussed on Phone

Deputy Superintendent of Police,
HQrs, Mardan.

No. 410 /PA dated Mardan the 27/08 /2020.

PA 28/8/20

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

Annex "D"

No. 3480-81 /PA

Dated 21/1 /2020

ORDER ON ENQUIRY OF HC ZAHOOR NO.2640

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Special Squad Police Lines, (Now under suspension Police Lines), Proceeded against departmentally through Mr. Gulshed Khan DSP/HQrs Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.318/PA dated 13-07-2020 on account that as per report of DSP City Mardan vide his office letter No.794/S dated 06-07-2020, complaining wherein that HC Zahoor has misused official power and interference in domestic affairs of one Khaista Rehman Son of Abdur Rehman Resident of Nisatta Road vide DD report No.23 dated 05-07-2020 PS Saddar, bringing a bad name for entire Police Force, who was later-on charged in a case vide FIR No.589 dated 12-07-2020 u/s 452, 354, 506, 34 PPC PS Saddar and placed under suspension vide OB No.1446 dated 13-07-2020, issued vide order endorsement No.3462-65/OSI dated 14-07-2020. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.442 dated 11-09-2020, holding responsible of alleged official of misconduct.

Final Order

HC Zahoor was heard in O.R on 16-09-2020, but failed to present any plausible reasons in his defense and his this act has brought a bad name to Police Department, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 1599
Dated 17/09/ 2020.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1) The SP/Investigation Mardan.
2) The DSP/HQrs. Mardan.
3) The P.O & E.C (Police Office) Mardan.
4) The OSI (Police Office) Mardan with ( ) Sheets.

ATTESTED

 12 Annex E

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1 MARDAN

Subject: **APPEAL AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 1599 DATED 17-09-2020, WHERE BY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE".**

Respected Sir,

The appellant humbly submits as under:-

That DPO Mardan had issued charge sheet No.318/PA dated 13-07-2020 to the appellant with the following allegations:-

> " **Whereas, you HC Zahoor No.2640, while posted at special squad Police Lines Mardan (Now under suspension Police Lines, proceeded against departmentally through Mr.Gulshed Khan DSP/Hqrs Mardan vide this office statement of Disciplinary Action/Charge sheet No.318 /PA Dated 13-7-20on account of that as per report of DSP City Mardan vide his office letter No.794/S dated 6-7-20,complaining wherein That HC Zahoor has misused official powerand interference in domestic affairs of one Khaista Rehman s/o Abdur Rehman R/O of Nisata Road vide DD Report No.23 dated 5-7-20 PS Saddar ,bringing a bad name for entire Police Force,who was later on charged in a case vide FIR No.589 dated 12-7-20 u/s 452,354,506,34 PPC PS Saddar and placed under suspension vide OB NO.1446 dated 13-7-20,issued vide order endorsement No.3462-65/OSI dated 14-7-20.The Enquiry officer after fulfilling necessary process,submitted his Finding Report to this office vide his letter No.442 dated 11-9-20,holding responsible of alleged official of misconduct.".(Copy of Charge sheet is enclosed)**

1. That in the light of the above charge sheet, a departmental enquiry was initiated against the appellant. In response to the charge sheet the appellant produced a detailed and comprehensive reply before the EO mentioning therein that he is innocent .The version of the appellant was not considered but the EO recommended the appellant for temporary re-instatement in service rather than dismissal from service till the final decision of case trial in court.**(Copy of reply to the charge sheet and EO Recommendations dated 27-8-20 are enclosed)**
2. That in the light of enquiry findings the DPO Mardan awarded major punishment of dismissal from service to the appellant vide OB NO. 1599 dated 17-9-20 and hence the present appeal.

3. BRIEF FACTS OF THE INCIDENT:

i. It is submitted that I am residing with my family in Police Line Family Quarters Mardan. That My father and Mother-in-laws permitted me to arrange a suitable Marriage couple "Rishta" in Mardan for your Sister-in- law named Mst. Shagufta so that better care of her be possible by me and my wife.I took the responsibility of this task and arranged the marriage ceremony on 13-6-20 with one Khaista Rehman s/o Abdur Rehman r/o GuliBagh presently near Peshawar Model School Mardan.It is worth mentioning here that I had no relation or friendship whatsoever with Khaista Rehman before this marriage. He was the relative of one Muradmere ordinary friend of mine.On 15-6-20, I alongwith my wife went to the house of Mst. Shagufta for the provision of lunch as per prevailed custom to the newly bride.I and my wife stayed there in the presence of her husband and other inmates of the house. When we got back to our house my brother in law SherAfzal r/o Hazro called me on mobile phone that what has happened in the house of Mst. Shagufta .She is weeping and complaining.I along with my wife went back to the house of Mst. Shagufta w/o Khaista Rehman.I stood outside the house and my wife entered in to the house.After a few moments my wife and her

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sister Mst.Shagufta came out and insisted to register a complaint in Police Station against one "Murad" brother-in-law of her husband .I tried my best to console her and made her aware of the consequences of this report in Police but she did not agree with me and was cursing her. On enquiring aboutthe facts behind the real cause of reporting in Police against the Murad, she told me that Murad is trying to create misunderstanding between me and my husband.

ii. That being the guardian of Mst. Shagufta at Mardan, I alongwith my wife and Mst Shagufta went to the PS Saddar and registered a complaint against the Murad vide DD No.28 dated 15-6-20 . Consequently Murad instigated Khaista Rehman ,the husband of Mst. Shagufta to complain to DPO Mardan against me and my wife. On 16-6-20 DSP Citycalled on both the parties and patched up the matter between us. It was decided that both the families could visit each other after 10/15 days and only women folk would enter each other houses and men would not be allowed to enter each other houses. These terms and conditions were fixed and accordingly agreed upon by both the parties and the dispute was resolved.

iii. That on 05-7-20 , I along with my wife invited Mst. Shagufta for lunch at our house as per custom of our locality.She told us that after getting permission from husband I will inform you people. After few moments Mstshagufta called to her sister about the permission and accordingly I alongwith my wife went to the house of Sister-in-law MstShagufta .I stayed outside the house of KhaistaRehman and my wife entered the house and cameout with her sister and we proceeded to our house at Police Lines Mardan.

iv. That after reaching our house just after a while ,ASI Mushtaq Khan i/c ARDS informed me on Mobile Phone to contact further with SHO Saddar. I contacted SHO Saddar who further directed to approach the office of DSP City Mardan. I alongwith my wife and sister- in-law MstShagufta went to the office of DSP City .He questioned about the matter of invitation. We narrated the real happening but he was not satisfied on our explanation and confined me to Quarter Guard for 05 days. That FIR No. 589 dated 12-7-20 u/s 354,452,506/34 PPC has been registered on application against me and my wife upon a fake ,fabricated and baseless allegations.(FIR Copy attached).

v. That BBA has been confirmed from the Honourable Court of ASJ-II Raja Muhammad Shoaib Khan ,Mardan vide order NO.4 dated 20-8-2020 and hence the present appeal.(**BBA Oder Copy is enclosed)**

GROUNDS OF APPEAL:

a. The appellant had not visited the house of the one Khaista Rehman on the day of registering Roznamacha report dated 5-7-20 .I had neither visited the house of him nor I had threatened any body.My wife had visited her sister house admittedly being women folk and elder sister.

b. That the alleged Mst. Shagufta (sister- in -law) has already recorded her statements u/s 164 Cr.PC in the court and S-161 Cr.PC before the Police and she has declared my immune from all these allegations.She has of her free will went to the house of her sister and me.**(Copy of 164&161 Statements are attached).**

c. That the allegation of using official power and status by the complainant is totally baseless and self presumed and such kind of domestic quarrels had no adverse image upon the whole Police service is out of imagination being low profile Police Official.The complainant out of jealousy and personal grudge has categorically proclaimed to disgrace me at any cost.

d. That the BBA of the appellant has been confirmed from the court of ASJ-II Mardan which shows that prima fascie the allegation has not been proved yet and the trial is still pending in the court.

e. That the sections of laws leveled against me are baseless and have not any bearing upon me and in court trial all allegations will be struck down.

ATTESTED

14

f. That the appellant is enlisted as constable in Police Department on 2-2-2009.I had no adver: remarks or any enquiry has not been conducted against me in the past.I have been awarde long ATS Course certificate on 8-1-2011 and also been honoured with First Position in Pakistan in the said Course.That another short ATS Course certificate has also been awarded the appellant on 17 May 2010.That another commendation certificate vide OB No.736 dated 5-2020 has also been awarded by the then DPO Mardan SSP Sajjad Khan. **That on 15-3-2012 t appellant had severely injured and almost a death point situation had arisen at that time in terrorist attack at Par Hoti, Mardan in which Inspector Mazhar Shah Khan and PASI Mukhti Khan were declared Shuhada.** That all the four terrorists attackers were succumbed to death a short period of 03 hours and the appellant was awarded one lac Rupee as a reward by the IG and early promotion had been granted to me.**(All relevant certificates are enclosed herewith)**

g. That the appellant is married having 05 kids and belongs to a poor family background and th only means of livelihood of the entire family is the Police Service of the appellant. Th petitioner and his family will remain thankful till last breath for this act of kindness.

h. The appellant has never been dealt departmentally prior to this incident. The appellant has als not been punished in the whole span of previous service and is determined to keep the servic record neat and clean in future.

i. The EO has conducted the departmental enquiry in superficial and cursory manner. The majc punishment recommended by DPO Mardan may not be considered keeping in view the abov facts and circumstances and the appellant be dealt with sympathetically. The version of th appellant may be given due weight in the given circumstances.

j. The Appellant had not been served with"**FINAL SHOW CAUSE NOTICE**" by the competer authority, which was the necessary requirement as per relevant rules and thus the illegal Ordc was passed.

k. The Appellant performed his duties efficiently, honestly, with great zeal and never showed an in-efficiency and negligence during his service prior to this before his seniors.

l. That the father of Appellant also served in the Police department as SI/PC named Hukam Kha after completion of 25 years of service.He is no retired and is a patient of Heart disease.Ou service towards police is evident from this aspect also.

Prayer:

Keeping in view the above facts and circumstances, it is humbly requested that the appeal o the appellant may kindly be accepted and the impugned order of DPO Mardan may be file by re-instating the appellant in service from the date of dismissal, please.

Your's obediently,

(Ex. HC ZAHOOR NO.2640)
District Police Mardan
(Now dismissed from service)

Dated:22 September, 2020.

ATTESTED

15

Annex F

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Head Constable Zahoor No. 2640 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 1599 dated 17.09.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Special Squad Police Lines, Mardan was involved vide case FIR No. 589 dated 12-07-2020 u/s 452, 354, 506, 34 PPC Police Station Saddar, Mardan.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police, Headquarter, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he held the delinquent Officer responsible for the misconduct.

He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 16.09.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 1599 dated 17.09.2020.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 06.10.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Besides, the appellant has misused official power and interfered in the domestic affairs of one Khaista Rehman (brother in-law of appellant) Son of Abdur Rehman Resident of Nisatta Road. Report in this regard was duly penned vide Daily Diary No.23 dated 05-07-2020 Police Station Saddar, District Mardan which brought a bad name for entire Police Force. Moreover, the involvement of appellant in an assault and use of criminal force for outraging the modesty of woman is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime and protecting the vested rights of the citizens he has himself

ATTESTED

F

indulged in criminal activities. He could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, **I, Sher Akbar, PSP S.St Regional Police Officer, Mardan,** being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

No. 6306 **/ES, Dated Mardan the** 12-10- **/2020.**

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 288/LB dated 01.10.2020. His service record is returned herewith.

(*****)

ATTESTED

"G"

نقل مد 23 روزنامچہ 05/7/2020 ۔ 17

نقل مد 23 رپورٹ شائستہ رحمان ولد عبدالرحمان قوم اعوان عمر 25/26 سال بشمول والدہ اُس سماۃ حاجرہ عمر 50 سال، ہمشیرہ حنان اُس سماۃ رحمان عمر 18 سال۔ عابدہ زوجہ محمد اسحاق عمر 22 سال سکنان بستہ روڈ تدریس وائل سکول بوقت 1010 بجے مورخہ 05/7/2020 کو باخبری تھانہ آکر حاضر ہو کر بول رپورٹ کرتا ہے کہ میری شادی نثار احمد سماۃ شگفتہ دختر محمد حال حضرو راولپنڈی کے ساتھ مورخہ 13/6/2020 کو ہوئی ہے۔ ہمارے گذرنے کے بعد بوقت تقریباً 230 بجے ظہور ولد حکم خان سکنہ فاطمہ حال پولیس لائن مردان بمعہ زوجہ اُس سماۃ اقبال آکر میری بیوی سماۃ شگفتہ کے ساتھ تعلقات رشتہ کرکے چونکہ ہمارے گھر ہماری آبادی کے لئے کافی دستور آئے تھے۔ تو میں نے ظہور کو منع کیا کہ آپ چلے جائیں کیونکہ بشورات ولیمہ دیکھنے کے لئے آئی ہیں۔ اس بات پر ظہور بمعہ زوجہ اُس سماۃ اقبال طیش میں آکر میری دلہن بیوی سماۃ شگفتہ کو ہاتھ سے پکڑ کر اپنے ساتھ پولیس لائن لے گئی۔ میں نے خود اور مہمان نے ظہور پر جبر کرکے کہ سماۃ شگفتہ دلہن کو واپس کریں کیونکہ مذکورہ نے ہمارے ساتھ گھر میں ایک رات گذاری ہے اور اب محلے کے لوگ اور رشتہ دار ہنس رہے ہیں۔ اور طرح طرح کی باتیں کر رہے ہیں لیکن ظہور میری بیوی کو واپس کرکے رات اُس کے گھر پولیس لائن میں گذارے اور مورخہ 16/6/2020 کو مہمان نے فیصلہ کرکے مہمان نے یہ پابندی عائد کر دی کہ ظہور آج کے بعد ہمارے گھر نہیں آئے گا۔ اگر کوئی مسئلہ ہوا تو میں خود اپنی بیوی کو لے جاؤں گا۔ فیصلہ ہونے کے بعد میں نے بیوی سماۃ شگفتہ کو اپنے گھر لے گئی۔ کچھ عرصہ گذرنے کے بعد میری بہن سماۃ شگفتہ کو میری بہنوں سماۃ عابدہ اور سماۃ فریدہ اپنے والدین کے گھر حضرو راولپنڈی لے گئی۔ ایک ہفتہ والدین کے گھر گذار کر مورخہ 30/6/2020 کو بروز منگل واپس آئی۔ کل مورخہ 04/7/2020 کو زوجہ ام سماۃ شگفتہ نے بتایا۔ کہ کل مورخہ 05/7/2020 کو میری بہن سماۃ اقبال اور اُسکا شوہر مذکورہ مجھے لینے آئے گا۔ انہوں نے کہا۔ کہ آپ ہمارے ساتھ چلے جائیں

ATTESTED

18 - کیونکہ مجھے شک پڑ گیا ہے۔ اس وجہ سے میں نے اپنی بیوی مسماۃ [illegible]
پر پابندی عائد کی۔ آج بوقت 0930 بجے میں [illegible]
جا رہا تھا۔ جونہی گھر سے نکلا۔ تو اس دوران ظہور
مسماۃ اقبال آ کر ظہور باہر گھر کے سامنے کھڑا ہوا اور اس کی بیوی مسماۃ اقبال
گھر کے اندر آئی اور میری بیوی کو اپنے ساتھ گھر سے نکال کر موٹر سائیکل
پر سوار کر کے پولیس لائن لے گئی۔ جاتے وقت ظہور مذکورہ نے مجھے میری
بھرجائی مسماۃ حامدہ اور میری بہن مسماۃ فریدہ کو دھمکیاں دی۔ کہ اگر
آپ لوگ باز نہ آئے۔ تو میں آپ لوگوں کو زندہ نہیں چھوڑوں گا
اور ظہور نے یہ بھی بتلایا۔ کہ میں نے DSP اور SHO کو جانتا ہوں۔ میں خود
فیصلہ کر کے آتا ہوں۔ اور اگر بندوق کو ایک بار اٹھایا۔ تو میں سب سے پہلے
مراد کو مارونگا۔ اور اس کے بعد آپ لوگوں کا خیال نہیں چھوڑونگا۔
چونکہ ظہور مذکورہ نے بارات آتے ہی ہمارے ساتھ تعلقات اچھے نہ
رہے اور ہمارے گھر برباد کرنے درپے ہیں۔ چونکہ ظہور اور اس کی بیوی مسماۃ
اقبال کے ان کرتوتوں کی وجہ سے کافی پریشان ہیں۔ ایسا نہ ہو۔ کہ ہم
ہمیں جانی یا مالی نقصان نہ پہنچائیں اور میری بیوی اپنی بہن مسماۃ اقبال کے
ساتھ جاتے وقت طلائی زیورات وغیرہ لے گئی ہے اور نقد رقم دس ہزار
روپے اپنے ساتھ لے گئی ہے۔ سرخیل محمد خالد واقعات کے ظہور ولد حکم خان اور مسماۃ
اقبال زوجہ ظہور ولد [illegible] ظہور مذکورہ سرکش مشتبہ نوعیت اور جان سے مارنے والے ہیں
اخلاق ہے [illegible] مسماۃ حامدہ والدہ رپورٹ کنندہ اور مسماۃ جان رپورٹ کنندہ
مسماۃ عابدہ۔ فریدہ نے رپورٹ ہذا کی تائید کی [illegible]
[illegible] رپورٹ کنندہ
حرف تفتیش سائل رپورٹ درج روزنامچہ ہو کر سنا بار کیا جاتا ہے۔ درست تسلیم کر کے زیر
حروف [illegible] جبکہ تائید میں کی [illegible] ثبت کے خاکہ خالت واقعات طلب
SHO صاحب کے نوٹس میں لاتے جا کر مجھول نے ظہور کو موبائل نمبر 44-9167431
سراغ لگا دی۔ حالت واقعات نہایت نازک ہے اور تکرار کی جا رہی ہے
لہٰذا اس کو اگر خوار اسد خان [illegible] جاتا ہے تعمیل عملہ مرتب ہو کر افسران بالا
کو بھیجا جائے گی۔ طلب عالی

Famused by PL

05-7-2020

05-7-2020

فارم

ابتدائی اطلاع رپورٹ — 19 — Annex H

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

تھانہ ڈاؤ ایس ایچ او صدر ضلع وزیرستان

نمبر 589 — تاریخ 26

تاریخ و وقت رپورٹ	26/10/2020 وقت 12:10
نام و سکونت اطلاع دہندہ / مستغیث شناختی کارڈ نمبر / موبائل نمبر	خالستہ رحمان ولد عبدالرحمان قوم احسان نمبر 25 سال ساکن لتہ روڈ تندوسیا ڈاؤ
مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو	45202-3547506-3
جائے وقوعہ فاصلہ تھانہ سے اور سمت	حسنال ازان حدود واقعہ لتہ روڈ تندوسیا ڈاؤ سکول
نام و سکونت ملزم شناختی کارڈ نمبر / موبائل نمبر	(1) ظہور ولد جسم خان (2) مسماۃ انبالہ زوجہ ظہور ساکنان حافظ حال پولیس لائن مردان
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	انکوائری رپورٹ مرتبہ خود ڈاؤ رجسٹر
تھانہ سے روانگی کی تاریخ و وقت	ہیلی ڈاک

ابتدائی اطلاع نیچے درج کرو — حدود تھانہ ڈاؤ نمبر 2 — مسمات

رپورٹ پر حسب ضابطہ انکوائری شروع ہوئی بعد انکوائری معلوم ہوا کہ واقعی ملزمان ظہور ولد جسم خان اور مسماۃ انبالہ زوجہ ظہور ساکنان حافظ حال پولیس لائن مردان مستغیث کے گھر میں داخل ہو کر اور مدعی قدوم کو قتل کرنے کی دھمکی اور جانی مجروح اور مسماۃ مستغیثہ کو اپنے ساتھ لے گئے ہیں بعد اجازت اپنے ساتھ لے گئے ہیں سرہمدست حالات واقعات سے مصدقہ جرم بالا کا پایا جانا جائز جرم بالا درج رجسٹر کر کے انکوائری ناظرین [illegible] تفتیش [illegible] ہے

نقل مثل رپورٹ خالستہ رحمان ولد عبدالرحمان قوم احسان نمبر 25 سال ساکن لتہ روڈ تندوسیا ڈاؤ [illegible] خزانہ نمبر 20 سال، عابدہ زوجہ اشفاق نمبر 23 سال ساکنان لتہ روڈ تندوسیا ڈاؤ [illegible] لوقت 10:00 بجے [illegible] کہ ملزمان [illegible] رحمان [illegible] رپورٹ [illegible] شادی [illegible] مسماۃ مستغیثہ [illegible] حسنال [illegible] کے ساتھ [illegible] 13 [illegible] لوقت تقریباً 12:30 بجے ظہور ولد جسم خان [illegible] حافظ حال پولیس لائن مردان [illegible] مسماۃ انبالہ [illegible] بیوی مسماۃ مستغیثہ کے ساتھ [illegible] جو کہ ہمارے گھر [illegible] شادی [illegible] کے سلسلے میں [illegible]

ATTESTED

—20 Annex I

Statement of Mst.Shagufta wife of KhaistaRehman daughter of SherBahadar aged about 20/21 years resident of HazroAttock presently Peshawar Model School Nisatta Road Mardan u/s 164 Cr.P.C o oath;-

Stated that on 5.07.2020, upon the invitation of my sister Mst.Iqbala wife of Zahoor, my husband allowed me and I alongwith my above named sister went to her house. As I was went to the house of my sister on the permission of my husband and no altercation whatsoever has been taken place between me and my husband or my father in laws, but unfortunately I came to know that they have lodged report against my brother in law namely Zahoor and my sister Mst.Iqbala. In my presence neither any occurrence had taken place nor my brother in law namely Zahoor (accused of case FIR No.589 of 2020) have entered into the house of my husband. The allegation leveled by the complainant against my sister and my brother in law are false, fabricated and just to harass both the alleged accused of above mentioned FIR. This is my statement.

R.O & A.C
Dt.28.07.2020

Mst.Shagufta_____
CNIC Nil.

Identified by Muhammad Saeed_____
CNIC No.37101-7507209-1

Hassan Mehboob,
Judicial Magistrate-II, Mardan.
Hassan Mehboob
Civil Judge-cum-JM
Mardan

ATTESTED

S&PD.KP-1912/26-Form Store-2,000 Pads of 100L-29.05.13/P4(2)/Form Store 2004/Police Zimni (Inner)

پولیس فارم ۲۵-۵۴ (۱)

21

رپورٹ ضمنی حصہ دوم (اندرونی)

Annex A

17/7/2020

سماۃ تسلیمہ زوجہ سبیاللہ الرحمٰن وجنس شیر خان عمر قریب 24 سال سکنہ طورو
منور آباد ایک خان پشاور حال شاول نوشہرہ دو ڈی ایم عدالت لیجنل
برادر الرحمٰن محمد سعید ولد شیر بہادر۔ مسمی ولد رحیم خان ۔ حاضر تھانہ اکبر چوک
لیڈیز پولیس سائرہ بی بی سماۃ تسلیمہ نے حلفیہ بیان کیا کہ آج سے تقریباً
ایک ماہ قبل 14/6/2020 کو سبیاللہ الرحمٰن کیساتھ شادی ہوئی تھی اور محبت
شروع دن سے ہی ساس ام سماۃ حمیدہ کی طرف سے اور خاوند ام سبیاللہ الرحمٰن کی طرف سے
مراد جو اپنے ساس کی گھر آیا جایا کرتا ہے ساس ام حمیدہ کی مجھے ہمیشہ یہ بات
پریشان کرتی ہے اور مراد جب گھر پر ہوں تو ہمیشہ میں دونوں کی لڑائی ہوتی ہے
دونوں مذکورین مجھے اچھے نہیں لگتے میں نے والد ام سبیاللہ الرحمٰن کو شکایت کی
لیکن اس نے میری بات پر کوئی دھیان نہ دیا خاوند ام نے یہ جواب دیا کہ مراد
اور ساس ام (والدہ ام) ایسی گھر کے اختیار میں ہیں آپ کو دونوں کا کہنا ماننا پڑے
گا۔ اس بات پر خاوند ام اور میرے مابین تلخ کلامی ہوئی اور خاوند ام نے مجھے
کہا کہ اگر مراد یہاں آتا ہے تو میں اپنے گھر میں اپنے بچوں کیساتھ نہیں رہ سکتا
میں پریشان ہوں۔ اور یہ حالات واقعات ایسے ہیں سماۃ وصائل ام رسول
طہور ولد [illegible] کو بھی حالات پیش آئے ہیں جو ایسے بتانے کی حاضر
طہور ولد مراد اور دیگر مشہورات اور خاوند ام سبیاللہ الرحمٰن کی موجودگی میں سماۃ
عشرت مذکورہ میں بیان کی ساس ضرور شرط پر دوبارہ راضی نامہ ہوا جو تحریری
شرط موجود ہے۔ میں خاوند ام سبیاللہ الرحمٰن کیساتھ دوبارہ گھر آئی اسکے
بعد صلح نامہ ام سماۃ وصائل نے ہمیں کوئی دعوت دی لیکن
ساس ام اور مراد میرے جانے پر راضی نہ تھے ہمیں خاوند ام سبیاللہ الرحمٰن
نے مجھے اجازت دے کر میں چلی گئی لیکن اس بات پر خاوند نے ناجائز تعلقات
کرتے ہوئے سماۃ حمیدہ ساس ام حسنا مراد کے کہنے پر مجھے تنگ کرنا
شروع کیا۔ اسکے علاوہ سبیاللہ الرحمٰن کی بغیر شادی شدہ ہمشیرہ کی طرف سے
لڑائی جھگڑے کی وجہ سے مراد کا گھر آنا جانا رہتا ہے۔ میں ان حالات
سے تنگ آکر سماۃ وصائل اور سماۃ رسول ام طہور کو گواہ بنا کر

[illegible] میری مرضی سے جاوید کی اجازت کے بغیر اپنے ساتھ
[illegible] اور بہنوں [illegible] کے گھر [illegible] رہا ہوں
میرے والدین کے گھر والوں [illegible] صرف ایک [illegible] تھا جسے کسی
نے بزور [illegible] کی تھی۔ میں [illegible] ہوش سنبھالا اور [illegible]
مسئلہ کا حصہ خود کر سکتی ہوں۔ اپنے علاوہ جاوید اور [illegible]
کے خلاف میں نے پہلی کورٹ میں [illegible] کی ہے۔ [illegible]
لیے میں والدین کو [illegible] کی ہے۔ اپنے علاوہ جاوید اور [illegible]
جو [illegible] ساتھ لے جانے کی بات کی ہے صرف دو ہزار روپے [illegible]
لے گئی ہے جو میرے پاس موجود ہے اور طلائی زیورات [illegible] 52 تولہ سونا
[illegible] جو میرے پاس ہے۔ میں اپنے والدین
کے گھر رہائش پذیر ہوں۔ [illegible]

22

Annex "K"

100 Rupees

بیان حلفی بابت بے گناہی سائلان/ملزمان

بعدالت جناب ایڈیشنل سیشن جج

ظہور حسین بنام سرکار

مقدمہ نمبر 589 مورخہ 05/07/2020 زیر دفعہ 452/354/506/34 PPC تھانہ ماڈل ٹاؤن

یہ کہ میں سائلہ مورخہ 5/7/2020 کو خاوند فرد عائشہ ارشد کی اجازت سے
بمعہ اپنی ساس اپنا گھر کسی کام سے باہر گئی تھی۔ میرے خاوند کے مطابق کوئی چیز چوری
گئی تھی۔ مگر میرا دیور جو کہ میرے خاوند کا بھتیجا ہے وہ وہاں نہ تھا اور ساس کو بھی اغوا کیا
جس کی وجہ سے مذکورہ بالا ایک من گھڑت اور خود ساختہ رپورٹ درج
کی۔ میں تمام اقوال و واقعات کی چشم دید گواہ ہوں اور میں گھر کے اندر موجود تھی
اور میں نے اپنے گھر سے ہمیں کے علاوہ کوئی شے نہ تو کوئی لڑائی ہوئی ہے
اور نہ ہی کسی کی بے عزتی کی گئی ہے تمام اقوال جو مدعی نے بیان کیے ہیں سراسر جھوٹ
اور خود ساختہ اور سائلان/ملزمان کے گناہ میں اور میرا دیور ابھی بیرون ملک
دبئی میں ہے وہ مذکورہ رپورٹ درج کروائی گئی ہے

شناخت عمر منیر ولد ارشد عائشہ زوجہ عمر منیر بقلم خود
37401-7507209-

ATTESTED

22-8-202 20-8-202 13-7-20 485/13BA

IN THE COURT OF RAJA MUHAMMAD SHAQIB KHAN
ADDITIONAL SESSIONS JUDGE-II, MARDAN

Zahoor Khan Etc...Vs...The state

23

C—4
20.08.2020

APP for the State present. Accused/petitioner on ad-interim pre-arrest bail with counsel present. Complainant alongwith counsel present.

Accused/petitioner (1) Zahoor Khan alias Zabor s/o Hakim Khan and (2) Mst. Iqbala wife of Zahoor both r/o Fatima presently Police lines Mardan, seeks the confirmation of their ad interim pre-arrest bail in case FIR No.589 dated 05.07.2020 registered under sections 452/354/506/34 PPC at P.S Saddar, Mardan.

Per contents of the FIR, on 05.07.2020 complainant Khaista Rehman reported to the local police to the effect that the complainant had charged both accused named above for the commission of offence as mentioned in mad No.28 dated 15.06.2020, hence the instant FIR.

Keeping in view the submission at the bar and the perusal of the case it is admitted position that the matter was reported to the police by the complainant mad No.23 on 05.07.2020. Earlier the wife of the complainant also reported to the police which was scribed into mad No.28 dated 15.06.2020. She recorded her statement before the concerned JM and denied alleged occurrence. Even otherwise all the sections of law are non-cognizable except section 452 PPC are available in share. The accused Mst. Iqbal [illegible] sister of M[illegible] Shagufta wife of the complainant [illegible] brother [illegible] of the complainant

Certified To Be True Copy
26 AUG 2020
Examiner Copying Branch
Session Court Mardan

ATTESTED

Khaista Rehman. The applicability of section 452 PPC could be adjudged at trial stage. Furthermore, the matrimonial dispute and alleged involvement of the petitioners as visible from mad No.28 could be a sufficient ground to show the malafide on the part of complainant. The accused/Petitioner No.1 is a police official while petitioner No.2 is lady who duly joined the investigation.

In view of above, both the accused made out an arguable case for the purpose of confirmation of bail hence the BBA is allowed.

In view of above, the BBA petition is accepted and ad interim pre arrest bail already granted to the accused/petitioner is confirmed on the existing bail bonds.

Record alongwith copy of this order be returned whereas this file be consigned to record room after its completion.

Announced
20.08.2020

(Raja Muhammad Shoaib Khan)
Additional Sessions Judge-II, Mardan.

Name of Applicant: Copy of Judgment
Application No: 13691
Date of Fresh: 25-8-202
Date on which: 26-8-202
Date on which: 26-8-202
No.s of pages: 4
Court Fee: nil
Urgent fee: nil
Signed of copies:
Date of Delivery: 26-8-2020

Certified To Be True Copy
26 AUG 2020
Examiner Copying Branch
Session Court Mardan

Defter Copy

- 23 Annex L

IN THE COURT OF RAJA MUHAMMAD SHOAIB KHAN, ADDITIONAL SESSIONS JUDGE-II, MARDAN

Zahoor Khan etc -VS- The State

C-4.
20.08.2020

APP for the State present. Accused/Petitioner on ad-interim pre-arrest bail with counsel present. Complainant alongwith counsel present.

Accused / Petitioner Zahoor Khan alias Zahor s/o Hakim Khan (2) Mst. Iqbala wife of Zahoor Khan both resident of presently Police Lines Mardan, seeks the confirmation of their ad-interim pre-arrest bail in Case F.I.R No.589 dated 05.07.2020 registered Under Section 452/354/506/34 PPC at PS Saddar Mardan.

Per contents of F.I.R, on 05.07.2020 Complainant Khaista Rahman reported to the local Police to the effect that the complainant had charged both accused named above for the commission of offence as mentioned in Madd No.28 dated 15.06.2020, hence the instant F.I.R.

Keeping in view the submission at the bar and the perusal of the case it is admitted position that the matter was reported to the Police by the Complainant Madd N.23 on 05.07.2020 earlier the wife of the Complainant also reported to the Police which was scribed into Madd No.28 dated 15.06.2020. She also recorded her statement before the concerned JM and denied the alleged occurrence. Even otherwise all the Sections of law are _____ not visible.

Annex "M"

رَبِّ زِدْنِي عِلْمًا

INTELLIGENCE BUREAU ACADEMY

ANTI TERRORIST WING

CERTIFICATE OF MERIT

It is certified that Constable No.2640 Mr.Zahoor Khan of KPK Police (Mardan)

has attended 58th Basic Anti Terrorist Training course,

from 04-10-2010 to 08-01-2011 and secured First position

in Physical

Islamabad.

Dated 08.01.2011.

MAJOR(R)ATTIQUE ARSHAD "Bar"

Commandant

ATTESTED

رَبِّ زِدْنِي عِلْمًا

INTELLIGENCE BUREAU ACADEMY

ANTI TERRORIST WING

CERTIFICATE

This is to certify that No 2640 Rank Constable

Name Mr.Zahoor Khan Province Mardan

successfully attended 58th asic Anti Terrorist Training course

from October 04,2010 to January 08,2011

Islamabad.

Dated 08,01,2011.

MAJOR(R)ATTIQUE ARSHAD 'Isc'
Commandant

ATTESTED

رب زدنی علما

District Police Line Mardan

5th Short A.T.S Basic Course

CERTIFICATE

This is to certify that No. 2640 Rank CONSTABLE

Name ZAHOOR KHAN Province K.P.K

successfully attended SHORT ATS COURSE NO 5 course

from 25 MARCH to 17 MARCH 2010.

Mardan.

Dated

District Police Officer
Mardan

ATTESTED

98

KHYBER PAKHTUNKHWA POLICE

KPK POLICE

COMMENDATION CERTIFICATE
CLASS III
GRANTED BY

Mr. Sajjad Khan PSP

District Police Officer Mardan

To HC Zahoor No. 2640.

Son of

District Mardan.

In Recognition of

For his good performance in case FIR No. 270 dated 27.4.2020 U/s 302/324/114/34 PC Kalang

Rs 1000/-

O.B No 738

Dated 05/05/2020

ATTESTED

District Police Officer
Mardan.

-28 Annex N

نقل مد جمہ روزنامچہ مورخہ [illegible] 19 [illegible] تھانہ [illegible]

رپورٹ مسماۃ [illegible] زوجہ حبیب الرحمان [illegible] عمر [illegible] سال

ساکن [illegible] پشاور حال [illegible] بوقت [illegible] مورخہ [illegible] 19

کو مشمول ہمشیرہ اپنی مسماۃ اقبال بنوں اپنی مسمی طہور خان ولد [illegible] خان عمر [illegible] سال

ساکنان [illegible] کو [illegible] تھانہ [illegible] مسماۃ [illegible]

کرتی ہے کہ میری شادی شرح [illegible] پر [illegible] ہوئی تھی آج میری

ہمشیرہ دن ہے مسمی حبیب الرحمان ولد عبدالرحمان ساکن [illegible]

ہمراہ آج بوقت [illegible] بجے مسمی طہور ولد [illegible] خان [illegible] مسماۃ

اقبال [illegible] کے مطابق ہمیشہ [illegible] کھانے [illegible]

ہمشیرہ [illegible] کے میری [illegible] [illegible]

[illegible] کا [illegible] [illegible]

[illegible] ہمشیرہ [illegible] [illegible]

ساکن [illegible] کا [illegible]

[illegible] حبیب الرحمان [illegible] [illegible]

[illegible] طہور [illegible]

[illegible] کہا [illegible]

[illegible] کا [illegible]

[illegible] کو [illegible]

[illegible] مسماۃ اقبال زوجہ طہور احمد [illegible] خان

[illegible] کا [illegible]

[illegible]

[illegible] کا [illegible]

[illegible] شادی [illegible]

[illegible] مسماۃ اقبال [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

ATTESTED

1588/20

بعدالت [illegible]

2020ء منجانب [illegible] بنام [illegible]

موزخہ _____
مقدمہ _____
دعویٰ _____
جرم _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام _____ کیلئے _____ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم _____ ماہ نومبر _____ 2020ء

العبد _____ گواہ _____ العبد _____

بمقام _____ کے لئے منظور ہے۔

16101-4888813-3
0313 8422889

C

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 15181/2020

Zahoor Ex-HC District Police Mardan.....Appellant

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

Para-wise reply by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Para to the extent of enlistment in Police Department of appellant pertains to record needs no comments, while rest of the Para is not plausible because every Police Officer / Official is under obligation to render meritorious service because in this department no room lies for lethargy moreover clean and neat service record does not mean a clean chit for future wrong deeds. However, his service record is tainted with bad entries (Copy of list of bad entries is attached as Annexure "A").
2. Correct to the extent that the appellant while Posted at Special Squad Police Lines Mardan placed under suspension on account of involvement in a case vide FIR No. 589 dated 12.07.2020 u/s 452/354/506/34 PPC Police Station Saddar, District Mardan. On account of aforementioned allegations, the appellant was issued charge sheet with statement of allegations and enquiry was entrusted to DSP/HQrs Mardan. The enquiry officer during the course of enquiry provided all lawful opportunities to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer held responsible the appellant for alleged misconduct.
3. Incorrect as discussed earlier, the appellant was issued Charge Sheet with statement of allegation and enquiry was entrusted to DSP HQrs Mardan who during the course of enquiry provided full-fledged opportunity to the appellant

for defending himself but he failed to produce any cogent evidence in his defense. Moreover, the appellant was also provided right of self defense in Orderly Room on 16.09.2020, but he failed to justify his innocence, therefore, he was awarded major punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant (Copy charge sheet, with statement of allegations and enquiry report are annexed as annexure "B", & "C").

4. Para pertains to record needs no comments, besides the appellant preferred departmental appeal and the appellate authority after paying due consideration, summoned and heard the appellant in Orderly Room held on 06.10.2020, but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected and filed being devoid of merit (Copy of rejection order is enclosed as Annexure "D").
5. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

A. Incorrect plea taken by the appellant is not plausible because respondents have no grudges against the appellant therefore, stance of the appellant is totally ill-founded.
B. Incorrect stance taken by the appellant is not plausible because respondents have no grudges against the appellant, hence, plea of the appellant is totally baseless, because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings.
C. Para pertains to record needs no comments.
D. Incorrect. The so called enquiry report annexed by the appellant is not available on the record of this office. Hence, the appellant may prove the stance taken by him.
E. Incorrect as discussed earlier, the appellant was issued Charge Sheet and statement of allegation and enquiry was entrusted to DSP HQrs Mardan who during the course of enquiry provided full-fledged opportunity to the appellant for defending himself but he failed to produce any cogent evidence in his defense. Moreover, the appellant was also provided right of self defense in Orderly Room on 16.09.2020, but he failed to justify his innocence, therefore, he was awarded major punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant.
F. As discussed earlier the respondent department had no grudges / ill-will against the appellant therefore, stance taken by the appellant has no legal footings to stand on.
G. Incorrect Para explained earlier needs no comments.
H. Incorrect. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can

run parallel and the fate of criminal case will have no effects on the departmental proceedings. Besides, release on bail does not mean acquittal from the charges rather the same is released from the custody.

I. Incorrect. Plea taken by the appellant is not plausible, the respondents fulfilled all the requirements and issued charge sheet with statement of allegations and he was also summoned and heard in Orderly Room on 16.09.2020, but he failed to justify his innocence, however, the orders passed by the competent authority as well as appellate authority are legal, lawful hence, liable to be maintained.

J. Incorrect. As explain in Para No.1, the service record of appellant tainted with bad entries.

K. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

It is therefore, most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed.

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 15181/2020

Zahoor Ex-HC District Police Mardan.....Appellant

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)

'A'

(Continue

CHARACTER ROLL OF

Serial No.

15-CENSURES AND PUNISHMENTS.—Conted.

Granted CC-III with cash Reward Rs. 1000/- by DPO/Mardan for his good performance

OB No. 736
05/05/2020

DPO/Mardan

ORDER:-

Being Charged in case vide FIR No. 589 dated 12/07/2020 u/s 452/354/506/34 PPC PS Saddar is hereby placed under suspension.

OB No. 1446
13/07/2020

DPO/Mardan

Awarded (05) days Quarter guard

OB No. 1117
08/07/2020

DPO/Mardan

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41. Mu
42. Rah

'A' (2)

Continued CHARACTER ROLL OF (Continued).

Serial No.

15-CENSURES AND PUNISHMENTS.—Contd.

ORDER

Awarded him Major Punishment of dismissal From Service with immediate effect, in exercise of The power vested in me under Police Rule-1975.

OB NO 1599
17/09/2020

DPO Mardan

(3) "A"

Contin

16. LEAVE, ABSENCE AND IN SERVICE

All periods not countihg "approved service" to entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	Desc ription of leave i.e. Privilege. hospital, sick leave, or farlougl, or of absence, or forfeiture of approved service. All entries to be initialled, by Superintendext of Police.
From	To	Years	Months	Days		
				12	460 / 10-2-010	Leave w/o Pay DPO/MR
				1	2325 / 28-6-10	DPO/MR
				1	3508 / 6-9-10	DPO/MR

0315-9413773 موبائل:

فارم نمبر ۲۴-۵(۲)

فارم نمبر ۳۷

ابتدائی اطلاع رپورٹ

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

تھانہ ماڈل پولیس سٹیشن صدر ضلع مردان

نمبر 21 مورخہ 589 تاریخ وقت رپورٹ 05/7/2020 وقت 9:30

۱۔ تاریخ ووقت رپورٹ	05/7/2020 وقت 1010 بجے / 05/7/2020 وقت 12:40
۲۔ نام وسکونت اطلاع دہندہ مستغیث شناختی کارڈ نمبر/موبائل نمبر	حالستہ رحمان ولد عبدالرحمان قوم افغان عمر 25/26 سال سکنہ نستہ روڈ تندوسیاہ ماڈل
۳۔ مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو	45 - 354 : 506-3
۴۔ جائے وقوعہ فاصلہ تھانہ سے اور سمت	مکان ازان ملزمی قدرے واقعے نستہ روڈ تندوسیاہ ماڈل سکول
۵۔ نام وسکونت ملزم شناختی کارڈ نمبر/موبائل نمبر	① ظہور ولد رحیم خان ② مسماۃ اقبال زوجہ ظہور سکنہ خاطر حال پولیس لائن مردان
۶۔ کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	انکوائری رپورٹ مرتبہ چند ادرج رجسٹر
۷۔ تھانہ سے روانگی کی تاریخ ووقت	بذریعہ ڈاک

ابتدائی اطلاع نیچے درج کرو: مختصر کیفیت جرم جائزہ نمبر ۲ نے بروز منگل رپورٹ برحسب ضابطہ انکوائری شروع ہوئی بعد انکوائری معلوم ہوا کہ واقعی ملزمان خانہ نمبر ۲ کے گھر میں داخل ہو کر اور مدعی قدرے کو قتل کرنے کی دھمکی اور جانی مالی نقصان کی صورت جرم بالا کا پایا جاتا ہے جرم بالا درج رجسٹر ہو کر بعد انکوائری حاضر ادنیٰ خواہ ایسا کے شعبہ تفتیش کے حوالے کیا جاتے ہیں۔ تفصیل درج ذیل ہے۔

بقل مدعی 23 رپورٹ حالستہ رحمان ولد عبدالرحمان قوم افغان عمر 25/26 سال سکنہ والدہ اس مسماۃ حامدہ عمر 50 سال، ہمشیرہ حال اس مسماۃ فریدہ عمر 30 سال، عابدہ زوجہ اسحاق عمر 35 سال ساکنان نستہ روڈ تندوسیاہ ماڈل بوقت 1010 بجے مورخہ 05/7/2020 کو حاضر تھانہ آ کر حالستہ رحمان بول رپورٹ کرتا ہے کہ میری شادی مسماۃ شگفتہ دختر سیر بہادر سکنہ حال حضرو راولپنڈی کے ساتھ ہوئی ہے۔ شادی کے بعد بوقت تقریباً 1230 بجے ظہور ولد رحیم خان سکنہ خاطر پولیس لائن مردان عمر زوجہ اس مسماۃ اقبال آ کر میری بیوی مسماۃ شگفتہ کے ساتھ ملاقات کرتے ہیں چونکہ ہمارے گھر شادی کی تیاریاں ہو رہی ہیں اور عورتیں آئی ہوئی ہیں تو میں نے ظہور کو کہا کہ آپ جاتے ہیں کیونکہ عورتیں دیکھنے کے لئے آئی ہیں

[illegible] سے بڑھ کر اپنے ساتھ پولیس لائن لے گئی۔ میں خود اور میرے خاندان نے طور پر [illegible]
کرنے سماۃ شگفتہ دختر [illegible] کیونکہ خاوند نے ہمارے ساتھ کوئی
اچھا برتاؤ نہیں کیا اور اب حملے کے وقت رشتہ داران ہم نہیں رہے
ہیں اور طرح طرح کی باتیں کر رہی ہیں۔ میں ظہور مذکورہ نے میری بیوی
والیں نہ کرنے رات اس کے ساتھ پولیس لائن میں گزاری۔ اور مورخہ 16
خاندان نے فیصلہ کرنے کے بعد پابندی عائد کی۔ رسمی طور آج کے بعد
ہمارے گھر نہیں آئے گا اگر کوئی فیصلہ ہوا۔ تو میں خود اپنی بیوی کو لے
کر جاؤں گا۔ فیصلہ ہونے کے بعد میں نے بیوی سماۃ شگفتہ کو اپنے گھر لے آیا
کچھ عرصہ گزرنے کے بعد میری بیوی شگفتہ کو میری بہنوں سماۃ عابدہ
اور سماۃ فریدہ نے والدین کے گھر حضرو راولپنڈی لے گئی۔ اب ہفتہ دو دن
کے گزرنے کے بعد مورخہ 30/6/2020 کو سرور شکل واپس گھر خود آئی۔ کل مورخہ 1/7/2020
تو روحام سماۃ شگفتہ نے کہا۔ کہ کل مورخہ 2/7/2020 کو میری بہن سماۃ اقبال
اور اس کا شوہر ظہور مذکورہ مجھے لینے آئے تھے میں نے کہا۔ کہ آپ وہاں نہیں
جائیں گی۔ کیونکہ مجھے کچھ شک ہے۔ اس وجہ سے اپنی بیوی سماۃ شگفتہ
پر پابندی عائد کی۔ آج بوقت 0930 بجے میں گھر سے دفتر ہیڈ کوارٹر جا رہا
تھا جونہی گھر سے نکلا۔ تو اس وقت ظہور مذکورہ مع زوجہ اس کی سماۃ
اقبال آئے ظہور باہر کھڑے رہے اور اس کی بیوی سماۃ اقبال میرے گھر کے اندر
گئی اور میری گھر والی کو اپنے ساتھ گھر سے نکال کر موٹر سائیکل پر سوار کر کے پولیس لائن لے
گئی ہے۔ جاتے وقت ظہور مذکورہ نے مجھے میری بوڑھی ماں سماۃ حامدہ اور میری بہن
سماۃ نورین کو دھمکیاں دیں کہ اگر آپ تو واپس نہ آئے۔ تو میں آپ کو اور
نہیں چھوڑوں گا۔ اور طور سے یہ بھی کہا کہ میں نے DSP اور SHO کو
پیسے دے دیئے ہیں۔ میں خود فیصلہ کرتا ہوں۔ اور اگر آپ ہمارا سندوق اٹھایا۔ تو میں
خاوند ظہور مذکورہ نے بارات آتے ہی ہمارے ساتھ تعلقات اچھے نہیں رہے اور ہمارے
گھر کو برباد کرنے کے درپے ہیں کیونکہ ظہور مذکورہ محکمہ پولیس میں ہے اور میں تم
کی بوڑھی ماں اور میری بہن ظہور اور اس کی بیوی سماۃ اقبال نے ان لوگوں کی
جانب سے کافی پریشان ہیں۔ ان لوگوں نے دستخط دو بہن ماں کا [illegible] بھائی
میری بیوی اس بہن سماۃ اقبال کے ساتھ جاتے وقت [illegible]

اطلاع کے نیچے دہندہ کا دستخط ہوگا یا اس کی مہر نشان لگایا جائے گا۔ اور افسر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف یا ب سرخ روشنائی سے بالمقابل نام پر
ایک ملزم یا مشتبہ علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں لکھنا چاہیے۔

دوران (2) تولے اور تقریباً [illegible] روپے اپنے ساتھ لے گئی
جملہ حالات و واقعات کے بطور [illegible] خان اور ہمراہ اقبال [illegible]
انسپکٹر انگوٹھہ ہمراہ حامد و والدہ رپورٹ کنندہ اور ہمسایہ خان رپورٹ
ہمراہ عالم۔ خورشید نے رپورٹ ہائے کی تبدیلی انسپکٹر انگوٹھہ
حسب نقشہ سائل رپورٹ درج روزنامچہ پولیس پر بعد سنا یاد کیا گیا ہے۔ بیت
کرکے زیر رپورٹ خود انسپکٹر انگوٹھہ جملہ تمام میں انسپکٹر انگوٹھہ تحت
جائے حادثہ واقعات SHO صاحب کے نوٹس میں لائے جائے مجرموں کے بطور سیل
موجود سائل بری 0344-9167931 پر اطلاع دی۔ حادثہ واقعات نہایت
باریک بینی اور انکوائری کا متقاضی ہے لہٰذا بغرض انکوائری خواہ اسد خان
کیا جاتا ہے بعد عدم دستیابی پر افسران بالا مجرمان کی جاتی ہے جناب عالی

نقل مطابق اصل ہے

اسد خان

A.H. PS-SDR
12.7.2020

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 318 /PA Dated 13/7/2020

DISCIPLINARY ACTION

I, **Dr. Zahid Ullah (PSP)**, District Police Officer Mardan, as competent authority am of the opinion that **HC Zahoor No.2646** himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, **HC Zahoor No.2646** while posted at Special Squad Police Lines, as per report of DSP City Mardan vide his office letter No.794/S dated 06-07-2020, complaining wherein that HC Zahoor has misused official power and interference in domestic affairs of one Khaista Rehman Son of Abdur Rehman Resident of Nisatta Road vide DD report No.23 dated 05-07-2020 PS Saddar, bringing a bad name for entire Police Force.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **Mr. Shakil Ahmad DSP/HQrs is nominated as Enquiry Officer**.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

HC Zahoor, is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2020

CHARGE SHEET

I, **Dr. Zahid Ullah (PSP),** District Police Officer Mardan, as competent authority, hereby charge **HC Zahoor No.2646,** while posted at Special Squad Police Lines, as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

جناب عالی!

معروض خدمت ہوں۔ کہ بحوالہ مقدمہ علت نمبر 589 مورخہ 12.07.2020 جرم 452/354/506/34 صدر میں مدعی مقدمہ خائستہ رحمان ولد عبدالرحمان ساکن نستہ روڈ نے بحوالہ مد 23 روزنامچہ 05.07.2020 تھانہ صدر میں رپورٹ کی۔ کہ اسکی محمدی ہمراہ مسماۃ شگفتہ دختر شیر بھادر ساکن حضرو راولپنڈی کے ساتھ مورخہ 13.06.2020 کو ہوئی ہے۔ شادی کی پہلی رات گزرنے کے بعد یعنی دوسرے روز تقریباً 12:30 بجہ ظہور ولد حکم خان ساکن فاطمہ حال پولیس لائن مردان بمعہ زوجہ اش مسماۃ اقبالہ ہمارے گھر آکر میری بیوی شگفتہ کے ساتھ گفت شنید کر کے چونکہ ہمارے گھر شادی کی مبارکبادی کے سلسلے میں اور بھی مستورات آئی ہوئی تھی تو میں نے ظہور کو بتلایا کہ آپ جائیں کیونکہ مستورات دلہن کو دیکھنے کے لئے آئی ہیں۔ اس بات پر ظہور بمعہ زوجہ اش مسماۃ اقبالہ طیش میں آکر میری دلہن بیوی مسماۃ شگفتہ کو ہاتھ سے پکڑ کر اپنے ساتھ اپنے گھر پولیس لائن لے گئی۔ میں نے خود اور مشران نے ظہور پر جرگہ کر کے تاکہ مسماۃ شگفتہ دلہن کو واپس کرے۔ کیونکہ مذکورہ نے ہمارے ساتھ گھر میں ایک رات گزاری ہے۔ اور اب محلّہ کے لوگ و رشتہ داران ہنس رہے ہیں۔ اور طرح طرح کی باتیں کر رہے ہیں۔ کیونکہ ظہور مذکورہ نے میری بیوی واپس نہ کر کے رات اُس کے گھر پولیس لائن میں گزاری۔

مورخہ 16.06.2020 کو مشران نے فیصلہ کر کے ظہور مذکورہ پر پابندی عائد کہ مذکورہ آج کے بعد ہمارے گھر نہیں آئیگا۔ اگر کوئی مسئلہ ہو۔ تو میں خود اپنی بیوی کو میکہ لے جاونگا۔ فیصلہ ہونے کے بعد میں نے بیوی مسماۃ شگفتہ کو اپنے گھر لے آیا۔ کچھ عرصہ گزرنے کے بعد میری بیوی شگفتہ کو میری بہنوں مسماۃ عابدہ اور مسماۃ فریدہ نے اُن کے میکے والدین کے گھر راولپنڈی لے گئی۔ ایک ہفتہ والدین کے گھر گزار کر مورخہ 30.06.2020 کو بروز منگل واپس گھر خود آئی۔ مورخہ 04.07.2020 کو زوجہ ام مسماۃ شگفتہ نے بتلایا۔ کہ مورخہ 05.07.2020 کو میری بہن مسماۃ اقبالہ اور اُس کا شوہر ظہور مذکورہ مجھے لینے آئیں گے۔ میں نے کہا کہ آپ وہاں نہیں جائیں گی۔ کیونکہ مجھے اُن پر شک پڑ گیا تھا۔ اس وجہ پر میں نے اپنی بیوی مسماۃ شگفتہ پر پابندی عائد کی۔ آج میں گھر خود سے مہوڈھیری جا رہا تھا۔ جب میں گھر سے نکلا تو اس دوران ظہور مذکورہ بمعہ زوجہ اش مسماۃ اقبالہ آکر ظہور باہر گھر کے سامنے کھڑا ہوا اور اسکی بیوی مسماۃ اقبالہ میرے گھر کے اندر آئی اور میری بیوی کو اپنے ساتھ گھر سے نکال کر موٹر سائیکل پر سوار کر کے پولیس لائن لے گئی۔ جاتے وقت ظہور نے مجھے میری بوڑھی ماں مسماۃ حامدہ اور میری بہن مسماۃ فریدہ کو دھمکیاں دی۔ کہ اگر آپ لوگ باز نہ آئے تو میں آپ لوگوں کو زندہ نہیں چھوڑونگا۔

اور ظہور نے یہ بھی بتلایا کہ میں DSP اور SHO کو نہیں مانتا۔ میں خود فیصلہ کر سکتا ہوں۔ اور اگر ایک بار بندوق اُٹھایا تو میں سب سے پہلے مراد کو مارونگا اور اس کے بعد آپ لوگوں کا خیر نہیں ہوگا۔ چونکہ ظہور مذکورہ نے بارات آتے ہی ہمارے ساتھ تعلقات خراب کئے اور ہمارے گھر کو برباد کرنے کے درپے ہیں۔ چونکہ ظہورہ مذکورہ محکمہ پولیس میں ملازم ہے۔ اور میں بمعہ اپنی بوڑھی ماں اور میری بہنوں کے ظہور اور اسکی بیوی مسماۃ اقبالہ کے ان کرتوتوں کی وجہ سے کافی پریشان ہیں ایسا نہ ہو کہ ہمیں کوئی جانی یا مالی نقصان پہنچائے۔ میری بیوی اپنی بہن مسماۃ اقبالہ کے ساتھ جاتے وقت طلائی زیورات وزنی دو تولہ اور نقد رقم مبلغ 05 ہزار روپے اپنے ساتھ لے گئی ہے۔ برخلاف ظہور اور اسکی بیوی اقبالہ دعویدار ہوں۔

تفتیش:

دوران تفتیش ملزم ظہور اور مسماۃ اقبالہ نے بعدالت رابطہ محمد شبیر ایڈووکیٹ ASJ مردان سے عبوری ضمانت مورخہ 13.07.2020 کو حاصل کی جو بعدہ بوجہ قابل ضمانت جرم کی بناء پر BBA معزز عدالت سے کنفرم ہوئی۔ HC ظہور کے خلاف بحوالہ آرڈر نمبر 318/PA مورخہ 13.07.2020 کو محکمانہ کاروائی شروع ہو کر چارج شیٹ جاری کیا گیا۔ جس پر مذکورہ نے اپنا تفصیلی جواب دے کر لف ہذا ہے۔ اسکے علاوہ دوران انکوائری مدعی فریق سے مسمی خائستہ رحمان ولد عبدالرحمان، مراد ولد محمد آمین، مسماۃ عابدہ ہمشیرہ مدعی، مسماۃ حامدہ زوجہ عبدالرحمان اور HC ظہور کے بیانات لئے جا کر کر اُن پر سوالات بھی کئے گئے۔ جو شامل انکوائری ہے۔

فائنڈنگ:

دوران انکوائری پایا گیا۔ کہ یہ خالصتاً خانگی معاملہ ہے۔ جس میں HC ظہور مذکورہ نے اپنی سالی مسماۃ شگفتہ کی شادی اُس کے رضامندی سے مسمی حائستہ الرحمان کے ساتھ کی ہے۔ اور شادی کے بعد HC ظہور مذکورہ کے جملہ افعال پختون معاشرے اور روایات کے خلاف ہیں نہ صرف اُسکی سالی کا گھر خراب ہوا ہے بلکہ دوسری طرف اُسنے اپنے سسرال والوں کے لئے بھی پریشانی پیدا کی ہے اور دونوں خاندانوں کے درمیان دوری پیدا کی ہے۔ اس کے علاوہ مقدمہ زیر سماعت عدالت ہے۔ جس کا جو بھی فیصلہ ہو جائے وہ افضل ہوگا قابل ذکر بات یہ بھی ہے۔ کہ مسمی خائستہ رحمان کی بیوی مسماۃ شگفتہ نے بحوالہ مد 28 روزنامچہ 15.02.2020 اور بیان زیر دفعہ 164 ض ف بعدالت حسن محبوب JMIC-II کو اپنے بیانات میں ظاہر کیا ہے کہ میں اپنے خاوند کی اجازت سے اپنی بہن کے گھر گئی ہوں۔ حالانکہ مدعی فریق سے لئے گئے بیانات میں یہ وضاحت موجود ہے۔ کہ مسماۃ شگفتہ مدعی مقدمہ اور اُسکے گھر کے مستورات کے اجازت کے بغیر اپنی بہن مسماۃ اقبالہ اور اُس کے شوہر کے ساتھ اُن کے گھر گئی ہے۔ ظہور HC مذکورہ کو چاہیئے تھا کہ رشتون کی پاسداری کرتے ہوئے بغیر اجازت کے مسماۃ شگفتہ کو اپنے گھر نہیں لے جانا چاہیئے تھا۔ کیونکہ بغیر اجازت کے بہت قریبی رشتوں کو کمزور کیا جاتا ہے۔ جیسا کہ اس میں ہوا ہے مسماۃ شگفتہ اپنے میکے بیٹھی ہوئی ہے۔ اور اُن کا بسا بسایا گھر برباد ہو چکا ہے۔ کیونکہ سب سے زیادہ قریبی رشتہ میاں اور بیوی کا ہوتا ہے نہ کہ سالی کا۔ ظہور مذکورہ اس لاپرواہی اور ہٹ دھرمی کی وجہ سے دو خاندانوں میں دوری پیدا ہوئی۔

رپورٹ عرض ہے۔

ڈی ایس پی ہیڈکوارٹر
پولیس لائن مردان
11/9/2020

دائر نمبر 442 = 11/9/2020

The officer was heard in O.R.

Agreed with the recommendation of the enquiry officer.

The officer has brought bad name to Police Department therefore, he is awarded major punishment of dismissal from

Bernie

16.7.2020

انکوائری جواب

جناب عالی!

بحوالہ چارج شیٹ نمبری PA.318 مورخہ 13.07.2020 مجاریہ جناب DPO صاحب معروض خدمت ہونکہ من ہیڈ کانسٹیبل 2009 کا بھرتی شدہ ہوں۔ 2012 میں بحیثیت گنر SP صاحب آپریشن بمقام ایران آباد شاہ ڈھنڈ بابا پولیس مقابلہ میں لگ کر شدید زخمی ہو چکا تھا چونکہ اللہ رب العزت نے نئی زندگی دیکر اپنی ڈیوٹی فرض شناسی اور ایمانداری کیساتھ کر رہا ہوں اور پولیس لائن کے ایک فیملی کوارٹر میں اپنے بال بچوں کے ہمراہ رہائش پزیر ہوں۔ کچھ عرصہ قبل میرے سسر اور ساس نے من سائل کو بتلایا کہ اپنی سالی کیلئے مردان میں کوئی اچھا سا رشتہ ڈھونڈ کر اس کی شادی کروالو تا کہ ادھر مردان میں من سائل اور من سائل کی بیوی سالی ام مسماۃ شگفتہ کا خیر خبر لے سکے جس کے بعد من سائل اور زوجہ ام نے خائستہ رحمان ولد عبدالرحمان سکنہ گلی باغ حال پشاور ماڈل سکول شادی طے کر لی اور مورخہ 13/14 جون 2020 سالی ام مسماۃ شگفتہ کی شادی مسمی خائستہ الرحمان سے بشرعی محمدی کیساتھ ہو کر مورخہ 15.06.2020 کو زوجہ ام نے حسب رواج اپنے دلہن بہن کیلئے چائے روٹی کر کے من سائل کے ہمراہ سالی شگفتہ کے گھر چلے گئے جہاں پر سالی شگفتہ، سالی کا شوہر مسمی خائستہ الرحمان اور دیگر اہل خانہ کے موجودگی میں کچھ دیر وہاں ٹھہر کر اپنے گھر کیلئے واپس روانہ ہوئے جیسے ہی اپنے گھر پہنچے تو سالہ ام شیر افضل نے حضرو سے بذریعہ موبائل فون من سائل سے رابطہ کر کے بتلایا کہ شگفتہ کے گھر میں کیا مسلہ ہے۔ وہ رو رہی تھی کہ سسرال والوں نے شگفتہ کیساتھ کیا کیا ہے۔ تو فوراً سائل اور زوجہ ام سالی شگفتہ کے گھر پہنچ کر من سائل تھوڑے فاصلے پر کھڑا ہو کر جبکہ زوجہ ام اپنے بہن مسماۃ شگفتہ کے گھر خیر خیریت دریافت کرنے کیلئے مکان کے اندر چلی گئی۔ کچھ دیر بعد سالی مسماۃ شگفتہ اور زوجہ ام باہر نکل کر سالی ام رو رہی تھی اور رپورٹ درج کرانے کیلئے متعلقہ پولیس اسٹیشن جانا چاہتی تھی۔ من سائل نے سالی شگفتہ کو کافی سمجھایا مگر نہیں مان رہی تھی اور اپنے شوہر خائستہ الرحمان کے بہنوئی مراد کے پیچھے بددعائیں دے رہی تھی۔ من سائل نے وجہ پوچھی تو جواباً شگفتہ نے بتلایا کہ مسمی مراد میرے اور شوہر کے مابین بے اعتمادی پیدا کرنی کی کوششیں کر رہا ہے اور میرا گھر برباد کرنا چاہتا ہے۔ مجبوراً من سائل اور زوجہ ام سالی شگفتہ کے ہمراہ متعلقہ پولیس اسٹیشن صدر جا کر سالی شگفتہ نے بحوالہ مد 28 مورخہ 15.06.2020 برخلاف مراد رپورٹ درج روزنامچہ کر کے تب من سائل کو معلوم ہوا کہ معاملہ کیا ہے۔ اسکے بعد مسمی مراد نے خائستہ الرحمان کو ورغلا پسلا کر من سائل اور زوجہ ام کے خلاف جناب DPO صاحب مردان کو ایک تحریری درخواست دیکر جو کہ DSP صاحب سٹی کو مارک ہو کر مورخہ 16.06.2020 کو جناب DSP سٹی نے فریقین کو دفتر طلب کر کے معاہدہ طے ہوا کہ خائستہ الرحمان کی زوجہ مسماۃ شگفتہ اور من سائل کی زوجہ اور دیگر اہل خانہ 10/15 یوم کے بعد ایک دوسرے کے گھر آنا جانا ہوگا لیکن مردوں کا آنے جانے پر پابندی ہوگی۔ جس پر فریقین نے راضی ہو کر معاملہ ختم کیا۔ مورخہ 05.07.2020 کو زوجہ ام نے اپنے بہن کیلئے رواج کے مطابق روٹی یا کھانے پینے کیلئے اپنے گھر کو کچھ دیر کیلئے آنے کی دعوت دی جس پر سالی نے بتلایا کہ شوہر سے اجازت مانگنے کے بعد آپکو اطلاع دونگی اور کچھ وقت بعد سالی ام نے اپنے بہن زوجہ ام کو بچوں کے زبانی بتلایا کہ شوہر سے اجازت مل گئی ہے مجھے لینے کیلئے آ جاو۔ جس کے بعد زوجہ ام اپنے بہن کو لینے کیلئے چلی گئی اور اپنے بہن مسماۃ شگفتہ کو ہمراہ گھر ساتھ لے آئی۔ کچھ دیر بعد مسمی مشتاق خان ASI انچارج ARDS نے مجھے بذریعہ فون اطلاع دی کہ SHO صدر سے رابطہ کرو۔

جس پر فوراً من سائل نے SHO صدر پولیس اسٹیشن سے رابطہ کر کے SHO صاحب نے بتلایا کہ DSP سٹی کے دفتر پہنچ جائیے من سائل زوجہ ام اور سالی کے ہمراہ DSP سٹی آفس پہنچ گئے۔ DSP صاحب نے صرف من سائل کو طلب کر کے بتلایا کہ کیا معاملہ ہوا ہے۔ من سائل نے بتلایا کہ من سائل کی زوجہ ام نے اپنے بہن مسماۃ شگفتہ کیلئے حسب روایت روٹی کی دعوت دی تھی۔ چونکہ آج زوجہ ام بمطابق معاہدہ مورخہ 16.06.2020 کی پاسداری کرتے ہوئے اکیلے اپنے بہن کو لینے گئی تھی اور اپنی بہن مسماۃ شگفتہ کو ساتھ لے آئی ہے۔ اور کوئی مسئلہ نہیں ہے۔ مسماۃ شگفتہ روٹی کھا کر زوجہ ام کیساتھ گھر چلی جائے گی۔ DSP صاحب نے سائل کی بات نہ سنتے ہوئے من سائل کو کوارٹر گارڈ 5 یوم کیلئے بند کر دیا۔

جناب عالی!

من سائل نے پوری داستان صاحبان کی خدمت میں عرض کی ہے کوئی بات پوشیدہ نہیں رکھی گئی ہے۔ میں ایک مسلمان ہوں شادی شدہ ہوں اور 5 بچوں کا باپ ہوں۔ میرا سابقہ ریکارڈ جملہ پولیس کو واضح ہے چونکہ من سائل کافی سالوں سے پولیس لائن فیملی کوارٹرز میں رہائش پزیر ہوں۔ اپنے ڈیوٹی اور اپنے ڈیوٹی کے فرائض تک محدود زندگی گزار رہا ہوں۔ سالی ام مسماۃ شگفتہ مجھ سے بلحاظ عمر بہت چھوٹی ہے اور میرے بچوں کی طرح ہے۔ اس کے سسرال والے جو گھٹیا سوچ رکھتے ہیں اللہ رب العزت ایک دن ان سے ضرور پوچھے گا۔ آپ صاحبان نے میرے کردار کے مطابق بیشک خفیہ معلومات کرے۔ ایک جھوٹے درخواست کی وجہ سے من سائل کے خلاف مقدمہ علت 589 مورخہ 12.07.2020 جرم 354.452.506/34 تھانہ صدر رجسٹرڈ ہو چکا ہے۔ جسکی وجہ سے سائل کی ازدواجی زندگی اور نوکری خطرے میں پڑھ گئی ہے۔ صرف پولیس والا ہونے کے ناطے مسمیان خائستہ الرحمان اور مراد کے آنکھوں میں چھبتا ہوں۔ اگر من سائل کے کردار میں کوئی فرق ہوتا تو کم از کم سائل کی زوجہ سائل کے ساتھ کھڑی نہیں ہوتی، بے قصور ہوں۔ سائل نے کبھی بھی کسی کی ذاتی معاملات میں مداخلت نہیں کی ہے۔ میرا دامن صاف ہے۔

التجا ہے کہ چارج شیٹ بغیر کسی کاروائی کے داخل دفتر فرمائی جائے۔

المرقوم: _____

العبد _____

ظہور خان (ہیڈ کانسٹیبل) بیلٹ نمبر 2640

رابطہ: 03449167431

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 3698-91 /PA

Dated 21/1/2020

ORDER ON ENQUIRY OF HC ZAHOOR NO.2640

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Special Squad Police Lines, (Now under suspension Police Lines), Proceeded against departmentally through Mr. Gulshed Khan DSP/HQrs Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.318/PA dated 13-07-2020 on account that as per report of DSP City Mardan vide his office letter No.794/S dated 06-07-2020, complaining wherein that HC Zahoor has misused official power and interference in domestic affairs of one Khaista Rehman Son of Abdur Rehman Resident of Nisatta Road vide DD report No.23 dated 05-07-2020 PS Saddar, bringing a bad name for entire Police Force, who was later-on charged in a case vide FIR No.589 dated 12-07-2020 u/s 452, 354, 506, 34 PPC PS Saddar and placed under suspension vide OB No.1446 dated 13-07-2020, issued vide order endorsement No.3462-65/OSI dated 14-07-2020. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.442 dated 11-09-2020, holding responsible of alleged official of misconduct.

Final Order

HC Zahoor was heard in O.R on 16-09-2020, but failed to present any plausible reasons in his defense and his this act has brought a bad name to Police Department, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 1599
Dated 17/09/2020.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1) The SP/Investigation Mardan.
2) The DSP/HQrs: Mardan.
3) The P.O & E.C (Police Office) Mardan.
4) The OSI (Police Office) Mardan with (10) Sheets.

15

Annex F

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Head Constable Zahoor No. 2640 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB. No. 1599 dated 17.09.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Special Squad Police Lines, Mardan was involved vide case FIR No. 589 dated 12-07-2020 u/s 452, 354, 506, 34 PPC Police Station Saddar, Mardan.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police, Headquarter, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he held the delinquent Officer responsible for the misconduct.

He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 16.09.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB. No. 1599 dated 17.09.2020.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 06.10.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Besides, the appellant has misused official power and interfered in the domestic affairs of one Khaista Rehman (brother in-law of appellant) Son of Abdur Rehman Resident of Nisatta Road. Report in this regard was duly penned vide Daily Diary No.23 dated 05-07-2020 Police Station Saddar, District Mardan which brought a bad name for entire Police Force. Moreover, the involvement of appellant in an assault and use of criminal force for outraging the modesty of woman is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime and protecting the vested rights of the citizens he has himself

ATTESTED

indulged in criminal activities. He could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

No. 6306 /ES, Dated Mardan the 12-10- /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 288/LB dated 01.10.2020. His service record is returned herewith.

(*****)

ATTESTED

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 15181/2020

Zahoor Ex-HC District Police Mardan.....Appellant

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

AUTHORITY LETTER.

Mr. Khyal Roz Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.15182/2020

Mr. Zahoor .....Appellant

Versus

The PPO and others.....Respondents

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO REPLY FILED BY RESPONDENTS.

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by Answering Respondents are erroneous and frivolous. All facts have been incorporated in the Memo of appeal and nothing has been concealed from this Hon'ble Tribunal. Appellant is highly aggrieved from the impugned order. Estoppel does not run against the law. The appeal has been filed by appellant well within time.

Facts:

1. Incorrect. Appellant rendered spotless service to the Respondent Force and he was never proceeded against departmentally.

2. Incorrect. The allegations were altogether ill-founded. Moreover, the departmental enquiry was also conducted in an improper manner as no such material available on record which could substantiate the charges leveled against the appellant which is no justification for imposition of awarding major penalty. Moreover the Enquiry Officer gave recommendation in favor of appellant.

3. Misconceived. The appellant's case was not properly enquired into, therefore, legally no punishment muchless major could be imposed

upon him. The appellant has been honorably acquitted after following the due process by learned Judicial Magistrate-II, Mardan vide order dated 06.04.2021. The operative part of the order is reproduced as under :-

> ***"In such circumstances, there seems no likelihood of conviction of the accused facing trial in the present case resultantly, the application is accepted and accused facing trial are acquitted under section 249-A Crpc from the charges leveled against them in the present case. They are on bail they and their sureties are discharge from the liability of surety bonds. Case property if any be disposed off in according to law after laps of period of appeal/revion".***

4&5. Incorrect. The Respondent Department did not comply with the settled law and appellant was not served with Show Cause Notice and was illegally thrown out of the Department without looking into the matter and merit. The appellant simplified the alleged scenario in his Departmental Appeal as a whole which was overlooked. Hence, the instant appeal.

Grounds:

A. Incorrect. The appellant was not treated in accordance with law and rules on the subject.

B&C. Incorrect. Neither the allegations had any legal basis nor the same were established, therefore, the imposition of major penalty is without lawful authority and hence not maintainable. As already narrated hereinabove that appellant along with his wife is acquitted from the charges as leveled against them by the competent Court of law.

D. Incorrect. The first inquiry favored the appellant but Respondents malafide conducted another enquiry at the back of the appellant and that too without furnishing reasons of disagreeing with recommendation of the Enquiry Officer. Moreover under the law the denovo enquiry can be conducted by another Enquiry Officer while

the same was conducted by the same Enquiry Officer which is utter violation of law and rules.

E-G. Incorrect. No opportunity of personal hearing as well as defense was given to the appellant nor second enquiry was conducted as per due course of law neither other formalities have been complied with.

H. Misconceived. The appellant in the first instance was released on bail consequently trial was commenced wherein after recording of pro and contra evidence the Court found the accused innocent and honorably acquitted him from the charges leveled against him. If the guilt has not been established the appellant deserved to be retained back with all of his due perks and privileges.

I&J. Incorrect hence denied. The appellant was not provided the chance of personal hearing by the competent forum resultantly the impugned order squarely falls under the ambit of void order.

K. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Appellant

Through

Muhammad Amin Ayub

Advocates, Peshawar

Dated: 30/**08/2021**

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Advocate

-4

Annex A

BEFORE THE COURT OF HONOURABLE JUDICIAL MAGISTRATEMARDAN

In the Matter of,

1) Zahoor Khan S/O Khukam Khan
2) Mst Iqbala W/O Zahoor Khan Both are R/O New Fatima Presently Charsada Chowk Mirwas Tehsil and District Mardan.

(Accused/Petitioner)

V/S

1) The State
2) Khesta Rehman S/O Abdur Rehman R/O Nisata Road Near Peshawar Model School Tehsil and District Mardan

(Complainants/Respondents)

FIR No. 589 U/S: 452/354/506/34 PPC

Police Station: Saddar, Mardan Dated: 12/07/2020

Subject: APPLICATION U/S 249-A OF Cr.PC FOR ACQUITTAL OF THE ACCUSED/PETITIONER's.

Respected Sir, The Petitioners/Accused submit as under

1) That, the petitioners are charged in the above captioned FIR and the allegations levelled against the accused/petitioner are absolutely false, frivolous, baseless, concocted in nature, having no truth whatsoever.

(copy of FIR is Annexed)

2) That, the petitioner is charged in baseless case and evidence to the same effect is not sufficient to connect the present accused/petitioner with commission of alleged offence.

3) That, even from the content of the challan, it is crystal clear that the allegation against the accused/petitionersare absolutely baseless and charge against them is groundless.

4) That, even if all the witness incorporated in the calendar of witnesses are recorded even then there is no probability of conviction of the accused/petitioner as there is no material available against the petitioner.

5) That, it is pertinent to mention here that one of the eyewitness of the occurrence namely Mst Shagoofta does not support the version of the complainant hence the case of the complainant is dubious and there is no possibility of conviction as prosecution must prove their case beyond reasonable doubt.

6) That, there are **two main ingredient** of U/S 249-A **one** is when charge has become groundless, and the **second** is when there is no probability of conviction of the accused and in the instant matter both ingredients are existing, hence prosecution case is not proceedable in the light of 249-A of Crpc.

7) That, in view of the above further proceeding will be a futile exercise and amount to victimization and harassment of accused petitioner.

8) That, in nutshell further proceeding in the matter in hand would only waste the precious time of this Hon'ble Court.

9) That, additional grounds would be raised at time of arguments with the permission of this hon'ble Court.

Prayers:

In the above circumstances it is respectfully prayed that by considering the application in hand and taking into account the fact that the charge is groundless and there is no probability of conviction of the accused petitioner, the petitioner may kindly be acquitted from the case in hand in the best interest of justice.

Dated: 02/02/2021

Submitted by

Petitioners/Accused

Certified To Be True Copy

2021

Examiner Copying Branch
Session Court Mardan

Through Counsel

Qazi Adnan Asmat
Advocate High Court

Qazi Adnan Asmat
Advocate High Court

NASIR ULLAH KHILJI
Advocate at Distt: & Session Court Mardan

Nasir Khan Khilji Advocate
QAZI LAW ATTORNEY'S

Order...09
Dt.6.04.2021

APP for the state present. Complainant with counsel present. Accused on bail with counsel also present.

Through this order I intends to dispose of an application filed by the accused/petitioner under 249-A for his acquittal in case FIR No.589 dated 5.07.2020 Under Section 452/354/506/34 PPC of Ps Saddar, Mardan.

Arguments heard and record perused.

Perusal of file reveals that though accused facing trial have directly been charged by complainant in the present FIR for commission of offence but except the bare allegation there is nothing on record which could connect the accused with the commission of offence but except the bare there is nothing on record, because neither the complainant is the eye witness of the occurrence nor the accused though remained in police custody had confessed their guilty. Further no recovery or discovery has been effected from the possession of accused facing trial. Further charge against the accused has been framed on 23.11.2020 and till now only two witnesses has been examined by the prosecution i.e. the statement of SI/OII Iqbal Mashwani, who in his examination in chief supported the story of prosecution, however when put in cross examination he deviated from his way for instance he admitted correct that Mst.Shagufat herself alongwith her brother came from Hazro Attock to Police Station and further admitted that she in her statement voluntarily stated that she has not been abducted nor forcibly taken away by the accused or anyone else but in fact she left the house of her husband at her own. He further admitted that the above named Mst.Shagufta herself appeared before the court and recorded her statement under section 164 Cr.P.C. Worth to mention that the complainant though while recording his examination in chief supported his stance but he in his cross examination he admitted that at the time of occurrence he was not present. He admitted that at the time of occurrence accused Zahoor did not entered into his house.

In such circumstances, there seems no likelihood of conviction of the accused facing trial in the present case resultantly,

the application is accepted and accused facing trial are acquitted under section 249-A Cr.P.C from the charges leveled against them in the present case. They are on bail they and their sureties are discharge from the liability of surety bonds. Case property if any be disposed off in according to law after laps of period of appeal/revision.

File be consigned to record room after necessary completion and compilation.

Announced.
Dt.6.04.2021

6/4/21

Muhammad Waheed Wali
Judicial Magistrate-II, Mardan.

Name of Application: تجدید خان و دیگر خان
No.of Application: 7190
Date of presentation of application: 7-4-21
Date of preparation of copies: 19-4-21
Number of Pages: P-23
Court Fees:
Urgent Fees:
Signed of copyist/Examiner:
Date of Delivery: 19-4-21

Certified To Be True Copy

19 APR 2021

Examiner Copying Branch
Session Court Mardan