

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT ABBOTTABAD.**

Service Appeal No. 13287/2020

Date of Institution ... 29.10.2020

Date of Decision ... 22.02.2023

Awaiz Aslam S/O Aslam Pervaiz, R/O Attar Shisha Tehsil and District  
Mansehra, Ex-Constable No. 1064. ... (Appellant)

**VERSUS**

District Police Officer, Mansehra and 01 another. ... (Respondents)

MR. SHAD MUHAMMAD KHAN,  
Advocate --- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General --- For respondents.

MR. KALIM ARSHAD KHAN --- CHAIRMAN  
MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)


**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precisely stating the facts of the case are that disciplinary action was taken against the appellant on the allegations of his absence from duty with effect from 01.07.2020 to 04.07.2020. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service vide impugned order bearing O.B No. 211 dated 20.08.2020 passed by the then District Police Officer Mansehra. The appellant challenged the order of his dismissal from service

through filing of departmental appeal, which was declined vide order dated 15.10.2020, hence the instant appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant addressed his arguments supporting the grounds agitated by the appellant in his appeal. On the other hand, learned Additional Advocate General for the respondents controverted the arguments of learned counsel for the appellant and supported the comments submitted by the respondents.



4. Arguments of learned counsel for the parties heard and record perused.

5. The appellant was proceeded against departmentally on the allegations of his absence from duty with effect from 01.07.2020 to 04.07.2020. DSP Shinkiari District Mansehra was appointed as inquiry officer in the matter. The appellant in his reply to the charge sheet as well as in his statement recorded during the inquiry has admitted his absence from duty, however he has taken the plea that as he was falsely charged by his wife in case FIR No. 763 dated 01.07.2020 under section 506 PPC read with section 25-D of Telegraph Act registered at Police Station Mansehra, therefore, he remained absent from duty for the

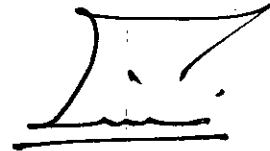
purpose of seeking bail before arrest from the court of law. Instead of remaining absent from duty, the appellant was required to have informed his high-ups regarding the lodging of FIR against him and should have there-after availed legal remedy regarding the criminal case registered against him. The appellant, however remained absent from duty without seeking leave or permission of the competent Authority and was, therefore, liable for commission of misconduct.

6. The question, however hounds the mind is whether the penalty so awarded to the appellant commensurate with the gravity of the charge or was too harsh. No doubt the competent Authority had jurisdiction to award to an accused any of the punishment provided under the Police Rules, 1975 but for the purpose of safe administration of justice, such punishment should be awarded which commensurate with the gravity of the ground on the basis of which penalty was awarded to an accused. Keeping in view the facts and circumstances of the case, we are of the opinion that the penalty so awarded to the appellant was too harsh, therefore, for safe administration of justice we convert the impugned penalty into minor penalty of stoppage of one increment for one year without cumulative effect.

7. In view of the above discussion, the appeal in hand is partially allowed by setting-aside the impugned orders and the major penalty of dismissal from service is converted into minor penalty of stoppage of one increment for one year without

cumulative effect. The appellant is reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as extra-ordinary leave without pay for bridging up his service gap. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.02.2023



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD



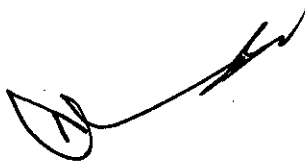
(KALIM ARSHAD KHAN)  
CHAIRMAN  
CAMP COURT ABBOTTABAD

ORDER  
22.02.2023

Learned counsel for the appellant present, Mr. Muhammad Zahid, ASI alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially allowed by setting-aside the impugned orders and the major penalty of dismissal from service is converted into minor penalty of stoppage of one increment for one year without cumulative effect. The appellant is reinstated in service and the period of his absence as well as the intervening period with effect from the date of his dismissal till his reinstatement shall be treated as extra-ordinary leave without pay for bridging up his service gap. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.02.2023



(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad



(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Abbottabad

14<sup>th</sup> Nov, 2022

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant seeks adjournment on the ground that his counsel is busy in the august Peshawar High Court, Abbottabad Bench. To come up for arguments on 13.12.2022 before the D.B at Camp Court Abbottabad.

**SCANNED  
KPST  
Peshawar**



(Salah Ud Din)  
Member (Judicial)  
Camp Court Abbottabad



(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

13<sup>th</sup> Dec, 2022

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Zahid, ASI for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Adjourned. To come up for arguments on 22.02.2023 before the D.B at Camp Court Abbottabad.

**SCANNED  
KPST  
Peshawar**



(Salah Ud Din)  
Member (Judicial)  
Camp Court Abbottabad




(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

18.05.2022

None present for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney along with Mr. Gul Shehzad, Sub Inspector for the respondents present.


Written reply/comments on behalf of respondents not submitted. Representative of the respondents sought time to submit the same on the next date. Last opportunity is granted. To come for written reply/comments before S.B at camp court Abbottabad on 18.07.2022.

  
Fareeha Paul  
Member (E)  
Camp Court, Abbottabad

18<sup>th</sup> July 2022

Appellant in person present. Syed Naseer ud Din, Assistant Advocate General alongwith Mr. Gul Shahzad, SI (Legal) for respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over the appellant. To come up for arguments on 17.10.2022 before D.B at camp court Abbottabad.

  
(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

13287/20

27.12.2021

Counsel for the appellant present. Preliminary arguments have been heard.

The impugned order as annexed with Memorandum of appeal reveals that the appellant has been awarded with major penalty of dismissal from service mainly on the ground of his absence and with added ground as to his involvement in criminal case vide FIR enumerated in the impugned order. The compatibility of the impugned order with reference to the charge of absence is questionable having regard to self-contained procedure about wilful absence contained in Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 as the charge of wilful absence does not constitute a ground for disciplinary proceedings under Police Rules, 1975. Besides, the extension of the ground beyond the charge sheet including allegation of FIR is a matter of arguments, therefore, this appeal is admitted for full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 14.03.2022 before S.B at camp court, Abbottabad.

Appellant Deposited  
Security & Process Fee

04/11/22

  
Chairman  
Camp Court, A/Abad



15.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case is adjourned to 30.09.2021 for the same as before.

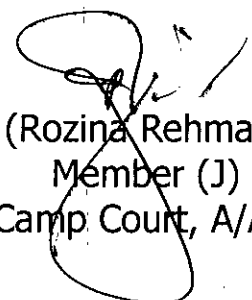


Reader

30.09.2021

Appellant present through counsel.

He made a request for adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 27.12.2021 before S.B at Camp Court, Abbottabad.





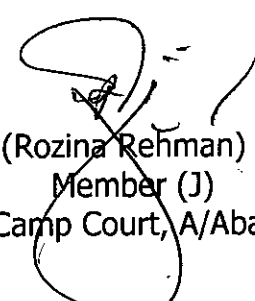
(Rozina Rehman)  
Member (J)  
Camp Court, A/Abad

Form- A

FORM OF ORDER SHEET

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

Case No.- 13287 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1-	29/10/2020	<p>The appeal of Mr. Awais Aslam received today by post through Mr. Shad Muhammad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted touring to S. Bench at A.Abad for preliminary hearing to be put up there on <u>15-03-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>15.03.2021</p> <p>Junior to counsel for appellant present.</p> <p>He made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court; granted. To come up for preliminary hearing on <u>15/6/2021</u> before S.B at Camp Court, Abbottabad.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J) Camp Court, A/Abad</p>

**BEFORE THE SERVICES TRIBUNAL K.P.K.**  
**PESHAWAR**

Awaiz Aslam.....Appellant

**Versus**

DIG Hazara Range etc.....Respondents

**SERVICE APPEAL**

**INDEX**

**SCANNED**  
**KPST**  
**Peshawar**

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3.	Affidavit	-	6
4.	Copies of charge sheet and reply.	"A" & "B"	7 to 10
5.	Copy of statement and findings of Inquiry Officer	"C" & "D"	11 to 14
6.	Copy of order	"E"	15
7.	Copy of appeal and order	"F" & "G"	16 to 18
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**Dated**    /    /2020

*Part 1*  
**Awaiz Aslam**  
(Appellant)

Through: -

*Shad Muhammad Khan*  
**SHAD MUHAMMAD KHAN**  
Advocate Supreme Court of  
Pakistan (Mansehra)

P-①

**BEFORE THE SERVICE TRIBUNAL, KPK**  
**PESHAWAR**

13287/20

Awaiz Aslam son of Aslam Pervaiz, resident of  
Attar Shisha Tehsil and District Mansehra ex-  
constable No. 1064.....Appellant

Peshawar Palakhtukhwa  
Service Tribunal

Versus

Diary No. 13667

Dated 29/10/2020

- 1) District Police Officer, Mansehra
- 2) DIG Hazara Range  
Abbottabad.....Respondents

**APPEAL UNDER SECTION 4 OF SERVICE**  
**TRIBUNAL ACT AGAINST THE ORDER DATED**  
**20.08.2020 OF DPO MANSEHRA VIDE WHICH**  
**THE APPELLANT WAS DISMISSED FROM**  
**SERVICE.**

**PRAYER: -**

Filed to-day  
Registrar

29/10/2020

On acceptance of appeal the impugned  
order of dismissal may kindly be set aside  
and the appellant may kindly be reinstated  
in service.

Respected Sir,

The brief facts leading to the instant appeal are  
arrayed as follows: -

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1) That, the appellant was appointed as a constable who served the department for sufficient long time.

2) That, the appellant was served with a charge sheet stating therein that the appellant absented himself from duty w.e.f. 01.07.2020 to 04.07.2020 without any leave or permission. It was further alleged that the appellant had remained absented from duty as mentioned in the charge sheet. The appellant submitted a detailed reply to the allegation leveled against him.

(The copy of charge sheet and the reply are attached as Annexure "A" & "B").

3) That, respondent No. 1 appointed an inquiry officer to probe into the matter who conducted an inquiry and recorded the statement. The appellant was examined by the inquiry officer and astonishingly he was subjected to cross examination by the inquiry officer himself which procedure is quite alien to law. The inquiry officer also submitted his finding.

(The copy of statement and finding of inquiry officer are attached as Annexure "C" & "D").

4) That, respondent No. 1 on receipt of finding of inquiry officer passed an order vide

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which the appellant was dismissed from service.

(The copy of order is attached as Annexure "E").

- 5) That, the appellant aggrieved by the order of respondent No. 1 submitted an appeal before respondent No. 2 who also turned down the request of appellant for his reinstatement.

(The copy of appeal and order are attached as Annexure "F" & "G" respectively).

The appellant seeks the indulgence of this Honourable Tribunal on the following amongst other grounds: -

**GROUND:-**

- A) That, the order of dismissal of appellant is against the facts and law and as such is not maintainable in the eye of law.
- B) That, the inquiry has not been conducted in accordance with the settled law rather it was conducted by the inquiry officer according to his own wishes and sweet will.
- C) That, the inquiry officer has committed an illegality by subjecting the appellant

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to cross examination as such procedure is not warranted by law.

D) That, the inquiry officer has blatantly violated the mandatory provisions of law laid down by service law as well as constitution and so the order of dismissal is not sustainable on this score.

E) That, respondent No. 1 has referred to the conduct of the appellant. There were some differences between the appellant and his wife and all the matters have been compromised and nothing is left behind which could show the conduct of the appellant as mentioned in the order.

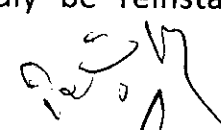
F) That, before passing the impugned order it is obligatory and mandatory for respondent No. 1 to provide all the opportunities to the appellant so that he could explain his position, but by not doing so the appellant has been deprived of the legal rights guaranteed to him by the service law as well as constitution.

It is, therefore, requested that on acceptance of appeal the order of dismissal may kindly be set aside and the


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appellant may kindly be reinstated in service.

Dated 26/10/2020

  
Awaiz Aslam  
(Appellant)

Through:-

  
SHAD MUHAMMAD KHAN  
Advocate Supreme Court of  
Pakistan (Mansehra)

**VERIFICATION**

I, AWAIZ ASLAM SON OF ASLAM PERVAIZ, RESIDENT OF ATTAR SHISHA TEHSIL AND DISTRICT MANSEHRA EX-CONSTABLE NO. 1064 DO HEREBY VERIFY THAT THE CONTENTS OF FORE-GOING APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.

  
AWAIZ ASLAM  
(DEPONENT)



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**BEFORE THE SERVICE TRIBUNAL, KPK**  
**PESHAWAR**

Awaiz Aslam.....Appellant

**Versus**

District Police Officer, Mansehra and one  
other.....Respondents

**APPEAL**  
**AFFIDAVIT**

I, AWAIZ ASLAM SON OF ASLAM PERVAIZ,  
RESIDENT OF ATTAR SHISHA TEHSIL AND DISTRICT  
MANSEHRA EX-CONSTABLE NO. 1064 DO HEREBY  
SOLEMNLY AFFIRM AND DECLARE ON OATH THAT  
NO SUCH SUBJECT MATTER APPEAL HAS EVER  
BEEN FILED NOR PENDING NOR DECIDED THAT THE  
CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE  
AND CORRECT TO THE BEST OF MY KNOWLEDGE  
AND BELIEF AND NOTHING HAS BEEN CONCEALED  
OR SUPPRESSED FROM THIS HONOURABLE  
TRIBUNAL.

*AWAIZ ASLAM*  
AWAIZ ASLAM  
(DEPONENT)



ANNEX = "A"  
P-7

CHARGE SHEET

I, Sadiq Hussain Baloch (PSP), District Police Officer, Mansehra as Competent Authority, hereby charge you Constable Awaiz Asalm No. 1064 GD PS Darband as follows.

Vide DD No. 22 dated 04-07-2020 Police Station Darband it has been reported that while you were posted as GD PS Darband Mansehra you absented yourself from duty with effect from 01-07-2020 to 04-07-2020 without any leave or permission. Your previous record was checked and found that you have absented yourself on the following occasion without any leave or permission.

OB NO.	From	To	Absent Period
158 dated 15-09-2010	18-08-2010	20-08-2010	02 days
89 dated 09-05-2011	16-03-2011	22-03-2011	06 days
91 dated 04-06-2010	18-05-2010	20-05-2010	02 days
241 dated 03-12-2011	01-09-2011	03-09-2011	02 days
241 dated 03-12-2011	10-09-2011	19-09-2011	09 days
241 dated 03-12-2011	20-09-2011	16-10-2011	26 days
147 dated 02-08-2012	22-07-2012	23-07-2012	01 day
123 dated 03-07-2012	13-06-2012	14-06-2012	01 day

From the perusal of your service record it transpired that you are an habitual absentee. It shows that you are an indisciplined Police Officer and you did not take interest in the discharge of official duty. It amounts to gross misconduct on your part.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (amended in 2014) and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

Your written defense, if any, should reach the enquiry officer 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.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.

*AH Aced*  
**SHAD MUHAMMAD KHAN**  
ADVOCATE  
SUPREME COURT OF PAKISTAN

*[Signature]*  
District Police Officer  
Mansehra

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### DISCIPLINARY ACTION

I, Sadiq Hussain Baloch (PSP), District Police Officer Mansehra, as Competent Authority of the opinion that Constable Awaiz Aslam No. 1064 GD PS Darband has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014).

Vide DD No. 22 dated 04-07-2020 Police Station Darband it has been reported that while you were posted as GD PS Darband Mansehra you absented yourself from duty with effect from 01-07-2020 to 04-07-2020 without any leave or permission. Your previous record was checked and found that you have absented yourself on the following occasion without any leave or permission.

OB NO.	From	To	Absent Period
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147 dated 02-08-2012	22-07-2012	23-07-2012	01 day
123 dated 03-07-2012	13-06-2012	14-06-2012	01 day

From the perusal of your service record it transpired that you are an habitual absentee. It shows that you are an indisciplined Police Officer and you did not take interest in the discharge of official duty. It amounts to gross misconduct on your part.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations DSP Shinkari are deputed to conduct formal departmental enquiry against Constable Awaiz Aslam No. 1064 GD PS Darband.

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014), provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

Message conveyed

District Police Officer,  
Mansehra

No 119-20 /SRC dated Mansehra the 28-07-2020

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

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975. Photocopies of correspondence are enclosed.
2. Constable Awaiz Aslam No. 1064 GD PS Darband with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.

District Police Officer,  
Mansehra

SHAD MUHAMMAD KHAN  
ADVOCATE  
SUPREME COURT OF PAKISTAN

ANNEX 2 "B"

P-9

BEFORE THE DISTRICT POLICE  
OFFICER MANSEHRA

Respected Sir,

- 1) The petitioner has been served with a notice stating therein that petitioner absented himself from his duty vide Daily Diary No. 22 dated 04.07.2020 when the petitioner was posted as G.B.P.S. Darband without seeking permission or leave tantamounting to misconduct, further a list of previous record has been annexed showing that the petitioner was found absent and was dealt with by awarding punishment.
- 2) That, to the misfortune of petitioner, the petitioner contacted marriage with a lady with whom differences arose leading to strained relation. In order to harm petitioner she filed a family suit which is pending in the court of Family Judge Mansehra. She was not solaced with the proceedings filed by her against the petitioner, she got a case registered against the petitioner and she was bent to get the petitioner arrested in said fake case.
- 3) That, the petitioner sensed/smelled the situation, came to Mansehra and submitted application for BBA. After having been allowed ad-interim bail the petitioner reported his arrival in the P.S. with the above facts and circumstances.
- 4) That, the petitioner never absented intentionally rather on account of above reasons the petitioner came for BBA.

It is, therefore, requested that the notice issued to petitioner may kindly be filed.

Dated 14.07.2020

Constable Awaiz Aslam  
No. 1064 PS Darband

*Affidavit*  
*M.*  
**SHAD MUHAMMAD KHAN**  
ADVOCATE  
SUPREME COURT OF PAKISTAN

Better Copy = ANNEX = B<sup>9P</sup>

**BEFORE THE DISTRICT POLICE**  
**OFFICER, MANSEHRA**

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**Respected Sir,**

- 1) The petitioner has been served with a notice stating therein that petitioner absented himself from his duty vide Daily Diary No. 22 dated 04.07.2020 when the petitioner was posted as G.D.P.S. Darband without seeking permission or leave tantamounting to misconduct, further a list of previous record has been annexed showing that the petitioner was found absent and was dealt with by awarding punishment.
- 2) That, to the misfortune of petitioner, the petitioner contacted marriage with a lady with whom differences arose leading to strained relation. In order to harm petitioner she filed a family suit which is pending in the court of Family Judge Mansehra. She was not solaced with the proceedings filed by her against the petitioner, she got a case registered against the petitioner and she was bent to get the petitioner arrested in said take case.
- 3) That, the petitioner sensed/smelled the situation, came to Mansehra and submitted application for BBA. After having been allowed ad-interim bail the petitioner reported his arrival in the P.S with the above facts and circumstances.
- 4) That, the petitioner never absented intentionally/rather on account of above reasons the petitioner came for BBA.

It is, therefore, requested that the notice issued to petitioner may kindly be filed.

**Dated 14.07.2020**

**Constable Awaiz Aslam**  
**No. 1064 PS Darband**

ANNEX 2 C

11

بیان انجیل انجیل اور اس کے تحت 1064 تصنیف کے تحت درج ہے  
بیان انجیل انجیل اور اس کے تحت 1064 تصنیف کے تحت درج ہے  
بیان انجیل انجیل اور اس کے تحت 1064 تصنیف کے تحت درج ہے



انجیل

انجیل اور اس کے تحت 1064 تصنیف کے تحت درج ہے  
0346-1960-200

EC

XXXX سوال نمبر (2) 1- درج ذیل کے بارے میں جواب دیجئے کہ  
1- درج ذیل کے بارے میں جواب دیجئے کہ  
1- درج ذیل کے بارے میں جواب دیجئے کہ

جواب: 1- افکار و اطلاع ملی کے معنی یہ ہیں جو ایک شخص کو  
وہ ہے جس نے یہ خبر ظفر غلام اور جیو جیو کے ذریعہ  
میں درج ذیل کے بارے میں جواب دیجئے کہ  
میں درج ذیل کے بارے میں جواب دیجئے کہ  
میں درج ذیل کے بارے میں جواب دیجئے کہ

سوال (2) 1- درج ذیل کے بارے میں جواب دیجئے کہ  
1- درج ذیل کے بارے میں جواب دیجئے کہ  
1- درج ذیل کے بارے میں جواب دیجئے کہ

Handwritten notes in Urdu, mentioning dates like 7/2020 and 7/2021, and the acronym OBA.

Handwritten notes in Urdu, including a circled number 13 and other illegible text.



Handwritten signature or name in Urdu.

Attested.

Handwritten text in Urdu, possibly a date or reference number.

Dy. Superintendent of Police  
Circle Shindari

Attested.

SHAD MUHAMMAD KHAN  
ADVOCATE  
SUPREME COURT OF PAKISTAN

ANNEX = PP D

از دفتر ڈی ایس پی سرکل گلپاری

21/07/2020

OFFICE OF DEPARTMENT; INQUIRY AGAINST FC AWAZ ASLAM No. 1064

PS DARBAND MANSEHRA UNDER THE K.P.K DISCIPLINARY

RULES 1975.

جناب عالی!

بحوالہ حکم نمبری 119-20/SRC مورخہ 08-07-2020 محکمانہ انکوائری ازان کانیشیل اوپن اسلم  
نمبر 1064 تھانہ دربند مانسہرہ موصول ہو کر مطالعہ سے پایا گیا کہ مذکورہ پر یہ الزام عائد ہیکہ وہ بطور جنرل ڈیوٹی تھانہ دربند  
تینماٹ ہے جو وہ مورخہ 01-07-2020 تا 04-07-2020 بغیر اجازت اخصت کے غیر حاضر ہوا۔ معاملہ کی انکوائری  
کیلئے مجھے بطور انکوائری آفیسر مقرر کیا گیا۔ میں نے حسب ضابطہ محکمانہ انکوائری کا آغاز کرتے ہوئے الزام علیہ کانیشیل اوپن اسلم  
نمبر 1064 کا بیان ریکارڈ کیا جبکہ الزام علیہ کانیشیل مذکورہ پر کراس سوالات بھی کئے گئے اسی طرح HC محمد ندیم MHC تھانہ  
دربند نے اپنا تحریری بیان مع نقل ریپٹ حاضری، غیر حاضری کانیشیل مذکورہ بھجوائیں۔ جملہ کارروائی ہمراہ انکوائری لف قابل  
ملاحظہ ہے۔

فائینڈنگ!

حالات و واقعات الزام علیہ کانیشیل اوپن اسلم نمبر 1064، محمد ندیم MHC تھانہ دربند کے بیانات، الزام  
مابہ کانیشیل مذکورہ سے ہوئی جرح، محرر تھانہ دربند کی جانب سے فراہم کردہ نقل ریپٹ نمبر 08 روز نامہ 01-07-2020  
رپورٹ غیر حاضری اور نقل ریپٹ نمبر 22 روز نامہ 04-07-2020 رپورٹ حاضری نقل FIR مقدمہ عدلت نمبر 763  
مورخہ 01-07-2020 جرم PPC 506/25-D تھانہ سٹی اور BBA آرڈر بعدالت جناب ASJ-III صاحب مانسہرہ  
معد نظر عدالتی کاغذات کی فوٹو کاپیوں کا مطالعہ / تجزیہ کرنے کے بعد یہ بات سامنے آئی کہ الزام علیہ کانیشیل اوپن اسلم  
نمبر 1064 جسکی بازار دربند شینہ اول ڈیوٹی لگی ہوئی تھی جس نے دوران ڈیوٹی اپنی SMG رانقل اپنے ہمراہی IHC  
تویر احمد کے حوالہ کی جو ٹیلی فون ایڈز کرنے کے بہانے وہاں سے چلا گیا تھا جو بعدہ اُسے ہمراہی IHC مذکورہ نے کال کی جسے  
الزام علیہ کانیشیل مذکورہ نے بتایا کہ اُس کیخلاف اُسکی بیوی نے جرم PPC 506/25-D تھانہ سٹی مقدمہ درج رجسٹر کرایا ہے  
جو وہ اسی وجہ سے گھر خود کیلئے چلا گیا ہے جو دوران انکوائری الزام علیہ کانیشیل اوپن اسلم نمبر 1064 کو بھر پور موقع فراہم کیا گیا جو  
وہ سوالات کے مفقول جوابات ندے۔ کاتام اپنے ڈینس میں یہ عذر پیش کیا کہ اُسکی پہلی بیوی نے اُس سے طلاق لے لی تھی  
جس میں سے 2 بچیاں اور 1 بیٹا پیدا ہو کر زندہ حیات موجود ہیں جبکہ اُسکی دوسری بیوی جو کہ محکمہ پولیس میں لیڈی کانیشیل بھی ہے  
سے 3 بچیاں اور 1 بیٹا پیدا ہو کر زندہ حیات موجود ہیں جو اُسکی دوسری بیوی پہلی بیوی کے بچوں سے نفرت کرتی ہے اور آئے روز  
اُس کیخلاف درخواستیں اور آتے لاپلا اور بے بنیاد تقدمات میں الجھتا رہتا ہے جس نے اُس کیخلاف فیملی کورٹ میں حق مہر اور خرچہ  
کیلئے مقدمہ بھی دائر کر رکھا ہے جو وہ 7 بچوں کی پرورش کو بے گرتخت پریشان ہے اور بچوں کیلئے نوکری کرنا بھی اُس کیلئے ضروری



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ہے جبکہ مذید بیانی ہوا کہ مقدمہ عدالت نمبر 763 مورخہ 01-07-2020 جرم PPC 506/25-D تھانہ کی اپنی عبوری ضمانت کرائی تھی اسکی بیوی کی درخواست راضی نامہ پر کنفرم بھی ہو چکی ہے کانشیل مذکورہ کی کل سروس 3 ہے جو مذکورہ کانشیل کی جملہ سروس میں 8 مرتبہ ڈیوٹی سے غیر حاضری پر بلا تخواہ، کوارٹر گارڈ، برخاستگی اور "Censure" سزائیں مل چکی ہیں۔

تفصیلی انکوائری سے یہ بات سامنے آتی ہے کہ الزام علیہ کانشیل اوپن اسلام نمبر 1064 کا عرصہ غیر حاضری مورخہ 01-07-2020 تا 04-07-2020 کل 3 ایام ثابت ہوتا ہے تاہم مذکورہ کی جانب سے پیش کردہ عذرات بھی قابل غور ہیں جنہیں مدنظر رکھتے ہوئے کانشیل مذکورہ کا عرصہ غیر حاضری (03) ایام بلا تخواہ شمار کئے جانے کی سفارش کی جاتی ہے رپورٹ عرض ہے۔

شیخ ایمن پی سیکرٹری  
سنکیباری

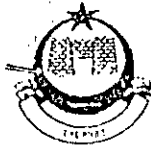
بلفونہ جانت: (18)

SRL  
OR  
DPO, Manshera

Attested,

SHAD MUNEER KHAN  
ADVOCATE  
SUPREME COURT OF PAKISTAN

Enclosures



ANNEX - E

POLICE DEPARTMENT

MANSEHRA DISTRICT

ORDER

(E)

P-

(15)

This office order will dispose off the departmental enquiry proceeding against Constable Awaiz Aslam No. 1064 who was proceeded against departmentally with the allegation that he while posted as GD Constable PS Darband absented himself from duty with effect from 01-07-2020 to 04-07-2020.

The Enquiry Officer i.e. DSP Shinkiari Mansehra after conducting proper departmental enquiry has submitted his report stating therein that after perusal of statement of alleged official and as well as other relevant record, I being enquiry officer come to the conclusion that the alleged official absented himself with effect from 01-07-2020 to 04-07-2020 without any leave or permission and being a member of disciplined force he was legally bound to inform his senior but he could not do so.

A final show cause notice was issued to the delinquent officer but his reply was found unsatisfactory. On 20-08-2020 the delinquent Constable Awaiz Aslam No. 1064 was heard in person in orderly room but he could not convince the undersigned in his defense.

This constable is nominated accused in following Cases.

1. FIR No. 1693 dated 31-12-2019 u/s 506 (2) PPC PS City Mansehra.
2. FIR No. 763 dated 01-07-2020 u/s 506 PPC/25-D Telegraph Act PS City Mansehra.

Besides, he is morally corrupt who elops the innocent girls and takes them in his Nikah but later on, inflicts domestic violence upon them.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Dismissal from service" to the delinquent Constable Awaiz Aslam No. 1064 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014).

*Att. A. A.*

Ordered announced.

OB 211  
20-08-2020

SHAB...  
District Police Officer  
Mansehra

ANNEX 2 F<sup>pp</sup>

BEFORE THE D.I.G. HAZARA RANGE  
ABBOTTABAD

P - (16)

APPEAL AGAINST THE ORDER OF DPO  
MANSEHRA DATED 20.08.2020 VIDE  
WHICH THE APPELLANT WAS  
DISMISSED FROM SERVICE.

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant joined the police force as a constable and serving the department devotedly. The appellant has been served with a notice alleging therein that he absented himself from duty on 01.07.2020 and reported his arrival on 04.07.2020. An inquiry was conducted by Inquiry Officer who gave his findings and recommendation that the period of three days be treated as leave without pay. On receipt of the finding of Inquiry Officer, the DPO passed an order vide which the petitioner has been dismissed from service.
- 2) That, to the misfortune of the appellant he contracted a 2<sup>nd</sup> marriage and the relations between the appellant and his wife became bitter who filed a suit against the appellant in the Family Court. She was not satisfied with the proceeding initiated against the appellant, she got a case registered against the petitioner and was bent to get the petitioner arrested.
- 3) That, a compromise has been affected between the appellant and his wife who is residing with the appellant.

*A. H. S. Tel.*  
*SHAD*  
*ADVOCATE*  
SUPREME COURT OF PAKISTAN

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- 4) The punishment awarded to the appellant is very harsh which does not commensurate with the gravity of allegations.

It is, therefore, requested that on acceptance of appeal the impugned order of dismissal may kindly be set aside and the appellant may be re-instated in service.

Dated 27.08.2020

Awaiz Aslam  
Belt No. 1064

*Awaiz Aslam*  
SIGNATURE  
SUPREME COURT OF PAKISTAN



ANNEX 2 "G"

P-18

OFFICE OF THE REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.pohazara@gmail.com

0345-9560687

NO: 26387 /PA

DATED 15/10/2020

**ORDER**

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex-Constable Awaiz Aslam No.1064 of District Miansehra against the punishment order i.e. *Dismissal from Service* awarded by DPO Miansehra vide OB No.211 dated 20.08.2020.

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Brief facts leading to the punishment are that the appellant while posted at Police Station Darband absented himself from duty w.e.f. 01-07-2020 to 04-07-2020 (total 04 days). Moreover, the appellant involved himself in two cases vide FIR No. 1693/19 u/s 506 (2) PPC PS City and FIR No. 763 dated 01-07-2020 u/s 506 PPC/25-D Telegraph Act PS City Miansehra. In addition to this, the appellant is involved in elopement of innocent girls and domestic violence.

The appellant was issued charge sheet alongwith summary of allegations and DSP Shinkari was deputed to conduct departmental enquiry. The EO held the appellant responsible of misconduct. He was issued final show cause notice and heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Miansehra awarded him major punishment of dismissal from service. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Miansehra were sought and examined/perused. The undersigned called the official in OR and heard him in person. However, he failed to advance any convincing reason in his defence. In addition to this, he was dismissed earlier vide OB No. 78 dated 28-04-2012 on account of his absence from duty which shows his disinterest in service. Moreover, the appellant has persistent reputation of being morally corrupt who elopes innocent girls for his ulterior motives. The cases registered against him are self evidence of his moral turpitude. Such acts of misconduct are unacceptable in a discipline force as it tarnished the image of Police in the eyes of general public. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.

Qazi Jamil ur Rehman (PSP)  
REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

No. 26387 /PA, dated Abbottabad the 15-10-2020.  
CC.

1. The District Police Officer, Miansehra for information and necessary action with reference to his office Memo No.16248/GB dated 02-08-2020. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.

SHAD MUHAMMAD KHAN  
ADVOCATE  
SUPREME COURT OF PAKISTAN

DBAM No. 35  
 BC No. 10-2701  
 Name of Advocate شاد محمد خان

S.No 5032  
 Fee Rs. 100/-  
 (19)  
 District Bar Association  
 Mansehra  
 2020-21  
 General Secretary

وکالت نامہ

بعدالت: جناب جسٹس مین صاحب سروس ٹریبونل پاکستان کراچی اور

عنوان: آویز اسلم بنام: D/O ویو  
 منجانب: ایڈوانٹ نوعیت مقدمہ: سروس ایبل

باعث تحریر آنکہ

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بمقام ایڈوانٹ کے لئے  
جناب شاد محمد خان ایڈوانٹ کو برائے پیروی و جواب دہی بمقام ایڈوانٹ کے لئے  
 کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور پورے پکارے  
 جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ  
 میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام پچہری کے علاوہ  
 کسی اور جگہ پچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ پچہری کے علاوہ  
 کسی اور جگہ سماعت ہوا یا پچہری کے اوقات کے آگے پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار  
 نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست  
 بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کاروبار وصول  
 کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپر دائر نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا  
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف  
 کر بشرط ادائیگی علیحدہ محتات نامہ ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدورال مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرسٹر کو  
 بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو  
 اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت  
 میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداختہ وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔  
 لہذا وکالت نامہ لکھ دیا ہے اور دستخط انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

20 مورخ

ACCEPTED  
 SHAD MUHAMMAD KHAN  
 ADVOCATE  
 SUPREME COURT OF PAKISTAN

1064  
 آویز اسلم  
 سروس ٹریبونل پاکستان کراچی

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**PESHAWAR**

**SERVICE APPEL NO. 13287 of 2020.**

Awaiz Aslam son of Aslam Pervaiz, resident of Attar Shisha Tehsil  
and District Mansehra ex- Constable No. 1064  
.....Appellant

**VERSUS**

District Police Officer Mansehra & Others.

.....Respondents

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**Deponent**

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA****PESHAWAR.****SERVICE APPEL NO. 13287 of 2020.**

Awaiz Aslam son of Aslam Pervaiz, resident of Attar Shisha Tehsil  
 and District Mansehra ex- Constable No. 1064  
 .....Appellant

**VERSUS**

District Police Officer Mansehra & Others.

.....Respondents

**Reply/ Comments On Behalf Of Respondents****RESPECTFULLY SHEWETH:-****PRELIMINARY OBJECTION:-**

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi to file the appeal.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appellant has not come to the Honorable Tribunal with clean hands.
- f) That the appeal is barred by law & limitation.

**FACTS:-**

1. Pertains to record to the extent of his appointment, however his entire service is full of bad entries coupled with two criminal cases registered against him. The detail of which is given below:-

1	FIR No. 1693 u/s 506 (2) dated 31.12.2019 PS City
2	FIR NO. 763 u/s 506/25-D Telegraphic Act PS City



2. The appellant while posted as GD Darband absented himself from duty with effect from 01.07.2020 to 04.07.2020, without any leave or permission. The appellant allegedly found morally corrupt who elopes the innocent girls and effects Nikah but latter on inflicts domestic violence upon them.
3. The appellant was properly Charge Sheeted and during the enquiry proceeding he was given every opportunity to defend himself. **(copy of charge sheet is attached as annexure A)**
4. The appellant was properly served with Final Show Cause Notice to which he replied unsatisfactory. He also appeared before the competent authority in orderly room but failed to submit cogent and reliable reasons of his absence from duty. Hence, he was dismissed from service vide OB No. 211 dated 20.08.2020. **(copy of dismissal order is attached as annexure A)**
5. The appellant filed departmental appeal before Respondent No. 02 which was filed being not entitled. The appeal is not maintainable on the following grounds:- **(Copy of rejection order passed by Respondent No. 02 is attached as annexure B)**

**GROUND:-**

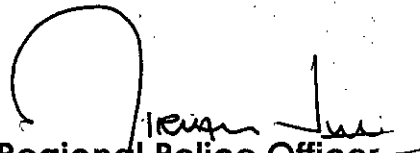
- A. Incorrect. The order of dismissal was in accordance with effects and law and maintainable.
- B. Incorrect. All the enquiry proceedings were properly conducted and full opportunity was given to the appellant.
- C. Incorrect. The enquiry officer has conducted the enquiry legally and followed the procedure warranted by law.

- D. Incorrect. The enquiry officer has not violated the mandatory provisions of law. Therefore order of dismissal is sustainable.
- E. Incorrect. The appellant was found morally corrupt and remained involved in criminal cases. The detail has been given in Para No. 01 & 02.
- F. Incorrect. The appellant was given full opportunity to defend himself during the enquiry proceedings as well as during personal hearings.

**PRAYER:**

In view of the above mentioned facts, the appeal in hand may kindly be dismissed with cost, being devoid of any legal force.

  
District Police Officer  
Mansehra  
(Respondent No. 1)

  
Regional Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondent No. 2)

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**PESHAWAR**

**SERVICE APPEL NO. 13287 of 2020.**

Awaiz Aslam son of Aslam Pervaiz, resident of Attar Shisha Tehsil  
and District Mansehra ex- Constable No. 1064  
.....Appellant


**VERSUS**

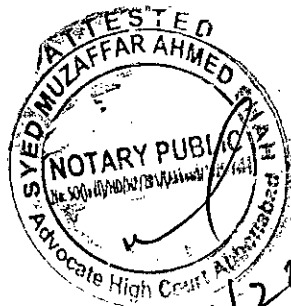
District Police Officer Mansehra & Others.

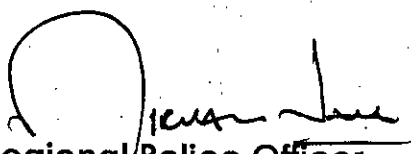
.....Respondents

**AFFIDAVIT**

We respondents do solemnly affirm and declare that  
the contents of the comments are true and correct to our  
knowledge and belief and that nothing has been concealed  
from this Honorable tribunal.

  
District Police Officer  
Mansehra  
(Respondent No. 1)



  
Regional Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondent No. 2)

(5) (A)

### DISCIPLINARY ACTION

I, Sadiq Hussain Baloch (PSP), District Police Officer Mansehra, as Competent Authority of the opinion that Constable Awalz Aslam No. 1064 GD PS Darband has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Hyber Pakhtunkhwa Police Disciplinary Rules 1975 (amended in 2014).

Via DD No. 22 dated 04-07-2020 Police Station Darband Officers have reported that while you were posted as GD PS Darband Mansehra you absented yourself from duty with effect from 01-07-2020 to 04-07-2020 without any leave or permission. Your previous record was checked and found that you have absented yourself on the following occasion without any leave or permission.

OB NO.	From	To	Absent Period
158 dated 15-09-2010	18-09-2010	20-09-2010	02 days
89 dated 09-05-2011	16-03-2011	22-03-2011	06 days
91 dated 04-06-2010	18-05-2010	20-05-2010	02 days
241 dated 03-12-2011	01-09-2011	03-09-2011	02 days
241 dated 03-12-2011	10-09-2011	19-09-2011	09 days
241 dated 03-12-2011	20-09-2011	16-10-2011	26 days
147 dated 02-08-2012	22-07-2012	23-07-2012	01 day
123 dated 03-07-2012	13-06-2012	14-06-2012	01 day

From the perusal of your service record it transpired that you are an habitual absentee. It shows that you are an indisciplined Police Officer and you did not take interest in the discharge of official duty. It amounts to gross misconduct on your part.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations DSP Shinklari are deputed to conduct formal departmental enquiry against Constable Awalz Aslam No. 1064 GD PS Darband.

The Enquiry Officer shall in accordance with the provisions of the Hyber Pakhtunkhwa Police Disciplinary Rules 1975 (amended in 2014), provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall in the proceeding, on the date, time and place fixed by the Enquiry Officer.

Message conveyed

District Police Officer,  
Mansehra

No. 117-2/JRC dated Mansehra the 28-07-2020

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

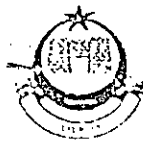
- The Enquiry Officer for initiating proceedings against the delinquent officer under the provisions of the Hyber Pakhtunkhwa Police Disciplinary Rules 1975. The copies of Enquiry and findings are enclosed.
- Constable Awalz Aslam No. 1064 GD PS Darband with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of his charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.

District Police Officer,  
Mansehra

A.H. Baloch

SNAP

6



ANNEX - E

POLICE DEPARTMENT

MANSEHRA DISTRICT

A)

ORDER

(E)

P-

(15)

This office order will dispose off the departmental enquiry proceeding against Constable Awaiz Aslam No. 1064 who was proceeded against departmentally with the allegation that he while posted as GD Constable PS Darband absented himself from duty with effect from 01-07-2020 to 04-07-2020.

The Enquiry Officer i.e. DSP Shinkiri Mansehra after conducting proper departmental enquiry has submitted his report stating therein that after perusal of statement of alleged official and as well as other relevant record, I being enquiry officer come to the conclusion that the alleged official absented himself with effect from 01-07-2020 to 04-07-2020 without any leave or permission and being a member of disciplined force he was legally bound to inform his senior but he could not do so.

A final show cause notice was issued to the delinquent officer but his reply was found unsatisfactory. On 20-08-2020 the delinquent Constable Awaiz Aslam No. 1064 was heard in person in orderly room but he could not convince the undersigned in his defense.

This constable is nominated accused in following cases:

1. FIR No. 1693 dated 31-12-2019 u/s 506 (2) PPC PS City Mansehra.
2. FIR No. 763 dated 01-07-2020 u/s 506 PPC/25-D Telegraph Act PS City Mansehra.

Besides, he is morally corrupt who elops the innocent girls and takes them in his Nikah but later on, inflicts domestic violence upon them.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Dismissal from service" to the delinquent Constable Awaiz Aslam No. 1064 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014).

Ordered announced.

OB 211  
20-08-2020

*[Handwritten signature]*

*[Handwritten initials]*

*[Handwritten signature]*

District Police Officer  
Mansehra



7

ANNEX - C/1

B7

P-18

OFFICE OF THE REGIONAL POLICE OFFICER  
 HAZARA REGION, ABBOTTABAD  
 0992-9310021-22  
 0992-9310023  
 r.polahazara@gmail.com  
 0345-9560687  
 NO: 21.2.21 /PA DATED 15/10/2020

**ORDER**

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex-Constable Awaiz Aslam No.1064 of District Manshara against the punishment order i.e. *Dismissal from Service* awarded by DPO Manshara vide OB No.211 dated 20.08.2020.

Brief facts leading to the punishment are that the appellant while posted at Police Station Darband absented himself from duty w.e.f. 01-07-2020 to 04-07-2020 (total 04 days). Moreover, the appellant involved himself in two cases vide FIR No. 1693/19 u/s 506 (2) PPC PS City and FIR No. 763 dated 01-07-2020 u/s 506 PPC/25-D Telegraph Act PS City Manshara. In addition to this, the appellant is involved in elopement of innocent girls and domestic violence.

The appellant was issued charge sheet alongwith summary of allegations and DSP Shinkari was deputed to conduct departmental enquiry. The EO held the appellant responsible of misconduct. He was issued final show cause notice and heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Manshara awarded him major punishment of dismissal from service. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Manshara were sought and examined/perused. The undersigned called the official in OR and heard him in person. However, he failed to advance any convincing reason in his defence. In addition to this, he was dismissed earlier vide OB No. 78 dated 28-04-2012 on account of his absence from duty which shows his disinterest in service. Moreover, the appellant has persistent reputation of being morally corrupt who elopes innocent girls for his ulterior motives. The cases registered against him are self evidence of his moral turpitude. Such acts of misconduct are unacceptable in a discipline force as it tarnished the image of Police in the eyes of general public. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-A (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.

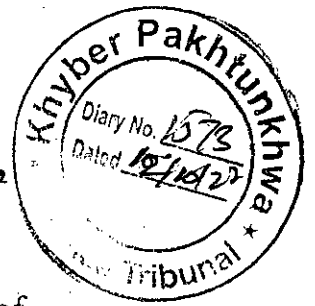
Qazi Jazail ur Rehman (PSP)  
 REGIONAL POLICE OFFICER  
 HAZARA REGION, ABBOTTABAD

No. 21392 /PA, dated Abbottabad the 15/10/2020.  
 CC.

- The District Police Officer, Manshara for information and necessary action with reference to his office Memo No.16248/1B dated 02-08-2020. The original Roll and Fair Missal containing enquiry file of the appellant is retained for information.

*[Handwritten signatures and stamps]*

P-1



**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam son of Aslam Pervaiz resident of  
Atter Sheesha Tehsil and District  
Mansehra.....(Appellant)

*Appeal* Versus *No 13287/2020*

DPO Mansehra etc.....Respondents

17/10/2022

Abbatabad  
comp court

Subject: **SERVICE APPEAL**

**REJOINDER ON BEHALF OF APPELLANT**

**Preliminary objection:**

- A) Para No. A of the preliminary objection is incorrect.
- B) Para No. B of the preliminary objection is incorrect.
- C) Para No. C of the preliminary objection is incorrect.
- D) Para No. D of the preliminary objection is incorrect.
- E) Para No. E of the preliminary objection is incorrect.
- F) Para No. F of the preliminary objection is incorrect.

**ON FACTS:**

- 1) Para No. 1 of the facts is incorrect. No conviction has been recorded. In case FIR No. 1693 compromise has been effected whereas in case FIR No. 763 the appellant has been acquitted.

(Copy of Judgment dated 30.05.2022 in case FIR No. 763 is attached as Annexure "A" whereas the compromise effected in case FIR No. 1693 is annexed as Annexure "B")

- 2) Para No. 2 of the facts is incorrect.
- 3) Para No. 3 is incorrect. The appellant was deprived of the opportunities prescribed by law.

2

- 4) Para No. 4 is incorrect. The entire proceedings were not conducted in the eye of law laid down by law.
- 5) Para No. 5 is incorrect. No cogent reason have been given for not entertaining appeal of the appellant.

**ON GROUNDS:**

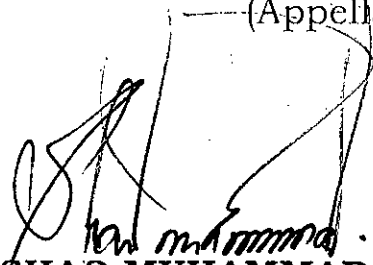
- A) Para No. A is incorrect.
- B) Para No. B is incorrect.
- C) Para No. C is incorrect.
- D) Para No. D is incorrect.
- E) Para No. E incorrect. There is no proof to established the involvement of appellant and vatrious cases.
- F) Para No. F is incorrect. The appellant was deprived of the statutory right granted to him by law.

**It is therefore,** requested that, the appeal may kindly be accepted.

**Dated: 08.10.2022**

**Awaiz Aslam**  
(Appellant)

Through: -

  
**SHAD MUHAMMAD KHAN**  
Advocate Supreme Court  
Of Pakistan, (Mansehra)



3

**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam.....(Appellant)

**Versus**

DPO Mansehra etc.....Respondents

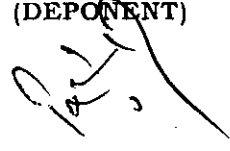
**AFFIDAVIT**

I, AWAIZ ASLAM SON OF ASLAM PERVAIZ RESIDENT OF ATTER SHEESHA TEHSIL AND DISTRICT MANSEHRA DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT NO SUCH SUBJECT MATTER WRIT PETITION HAS EVER BEEN FILED NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE COURT.

ATIL CU  
EJAZ ALI SHAIKH  
Advocate High Court  
Notary Public  
Date \_\_\_\_\_  
Distt: Mansehra

68/10  
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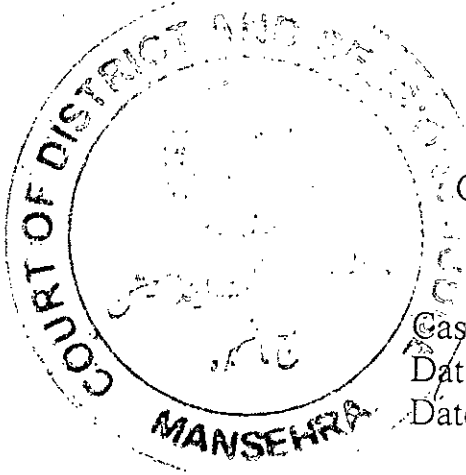
AWAIZ ASLAM  
(DEPONENT)



ANNEX - A,

Sessions Trial No.196/7 of 2020.

(The State VS Awaiz Aslam)



COURT OF AJMAL TAHIR,  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

P- (9)

Case No.....196/7 of 2020

Date of Institution:.....21.01.2020

Date of Decision:.....30.05.2022

THE STATE THROUGH ANILA KANWAL D/O JABIR HUSSAIN, CASTE MUGHAL, R/O QILLAY DI KASSI, TEHSIL AND DISTRICT MANSEHRA.

.....COMPLAINANT

VERSUS

AWAIZ ASLAM S/O ASLAM PERVAIZ, CASTE AWAN, RESIDENT OF BAILA MUNDIHAR, TEHSIL & DISTRICT MANSEHRA.

.....ACCUSED FACING TRIAL

JUDGMENT

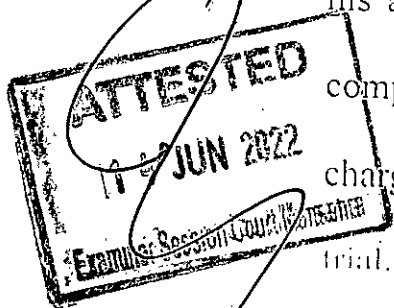
1) Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra, (herein after referred to as "accused") is facing trial in a case registered against him vide FIR No.763 dated 01.07.2020, under sections 506 PP/25-D Telegraph Act, registered at Police Station City, Mansehra.

2) Mst.Anila Kanwal had moved an application u/s 22-A Cr.PC before the learned Sessions Judge/Justice of Peace, Mansehra, which was entrusted to the court of learned ASJ-III, Mansehra for disposal. The complainant contended in her application that her Nikah was recited with the respondent Awaiz Aslam on 18.04.2011, however her husband neither allows her to breathe a sigh of relief nor pays her any maintenance during her

**ATTESTED**  
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Examined Sessions Court Mansehra

her husband extended life threats and asked her that he will kill her parents too. That, respondent is a mischievous person whose hobby is to play with the lives of girls. That, the respondent cheated her several times and then entered into compromise but used to retract from the terms of compromise, later on again turned from his obligations. That, the respondent entered into a written compromise with the complainant on 21.02.2020 that he will keep no relationship with one Mst.Nusrat Bibi but he concealed the fact that at the time of affecting compromise with the complainant, he had already contracted marriage/Nikkah with Mst.Nusrat Bibi on 16.07.2019, hence he made compromise with cheating and fraud. That, her dowry articles are in the possession of respondent and her second wife Mst.Nusrat Bibi, who used to break and damage the same. She prayed for registration of FIR against the respondent Awaiz Aslam. The application so submitted by the petitioner (now complainant) was allowed by the court of learned Addl; Sessions Judge-III, Mansehra vide order dated 22.06.2020, hence the instant FIR.

3) After completion of investigation, complete *challan* was submitted to the Court for trial. Accused was summoned and on his appearance, copies of case record were provided to him in compliance with the provisions of section 265-C Cr.PC. Formal charge was framed to which he pleaded not guilty and claimed trial. Prosecution was asked to produce its evidence and



6

prosecution produced (05) witnesses in support of its case. The gist of the prosecution witnesses is as under:

(i) PW-1 is the Statement of Complainant Mst. Anila Kanwal, who deposed that on 01.06.2020, she submitted a written application to DSP Headquarters Mansehra against her husband namely Awaiz Aslam, wherein she charged her husband for threatening her for dire consequences, if she created hurdle in his way, while he was contracting 3<sup>rd</sup> marriage, prior to this he also contracted 2<sup>nd</sup> marriage with me and divorced his 1<sup>st</sup> wife. Many altercations have taken place between them and many jirgas were convened by the different people, as result of which she had patched up the matter with her husband but he is still continued his activities and was in relation with some other females, whenever she tried to forbid him from such like activities he beaten her and threatened her for dire consequences. Prior to the registration of the instant case, he threatened her that he had her different videos which he will whirl if she resists forbidding him from such like activities. On the basis of her application before the Justice of Peace u/s 2-A Cr.PC, instant case was registered under section 506 PPC read-with Section 25-D Telegraph Act.

(ii) PW-2 is the Statement of Javed Khan SHO, P.S city Mansehra. The said PW submitted complete challan against the accused facing trial after completion of investigation.

(iii) PW-3 is the Statement of Jabir Hussain, s/o Raj Muhammad. He deposed that Mst. Aneela is her real daughter, who was married with the accused Awaiz Aslam. On 02.5.2020, her daughter Aneela informed him

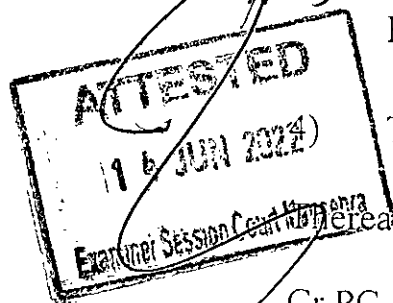


that accused is abusing her on her mobile phone, on which, he took the mobile from his daughter and talked to the accused, who also abused him and threatened him of dire consequences and he disconnected the call. The attitude of the accused with his daughter is very harsh, contemptuous and insulting during her Abadi. His statement u/s 161 Cr.P.C was also recorded by the I.O.

(iv) PW-4 is the Statement of Gul Nawaz Khan, ASHO Police Station City, Mansehra. He stated that after registration of the case, investigation was marked to him. Accused in the present case obtained BBA and came to him and handed-over the order. He issued his formal card of arrest Ex.PW-4/1, in the meanwhile, his BBA was confirmed. Vide application, Ex.PW4/2, he requested for CDR of Mobile number mentioned in the application, however, before he could obtain the same, challan in the case was submitted. Later on, CDR was placed on file and is Ex.PW-4/3 (seven pages). He also recorded the statement of the accused and PWs u/s 161 Cr.P.C. After completion of investigation, he handed-over the file to the SHO for submission of challan in the court.

(v) PW-5 is the Statement of Nadim Khan ASI Police Station City, Mansehra. This PW had chalked out FIR Ex.PA.

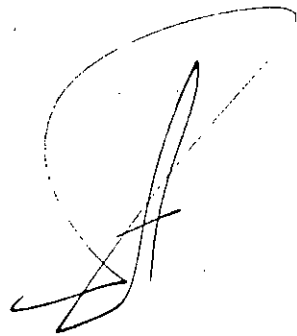
The prosecution closed its evidence being complete. Thereafter, statement of accused was recorded under section 342 Cr.PC, wherein all the pieces of evidence were placed before him in the question form and his reply to each question was accurately recorded. Accused was asked as to whether he wish to



record his statement on oath as his own witness in disproof of the allegations or whether he want to produce defence evidence in the light of provisions of section 340(2) Cr.PC; however, accused refused to record his statement on oath and did not opt to produce defense evidence.

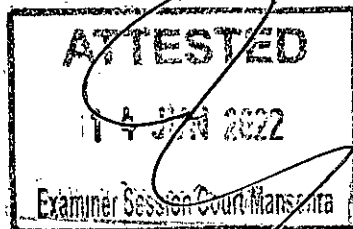
5) I have heard the learned counsel for the parties as well as learned Deputy Public Prosecutor for the State and perused the record, carefully.

6) Perusal of record reveals that in support of her stance, complainant Mst.Anila Kanwal has appeared as PW-1. In her examination-in-chief, she has made general allegations of threats to her life, of beating by accused facing trial and for making the videos public at the hands of accused. However, in her cross-examination, she admitted that she had not given date and time of threatening calls. She also admitted it correct that accused has not posted any video on the net. She also admitted it correct that at the time of submission of complaint to the DSP against accused facing trial, there was a family suit pending between the parties. In further support of the stance of the complainant, prosecution has placed on record some call data. The same call data is Ex.PW-4/3; however, it has not been proved through proper mode that the phone numbers mentioned in the same belong to and used by the accused facing trial and the



complainant herein. Even presuming, without holding, that the Call Data is actually of calls between accused and the complainant herein, it is of not much use to the prosecution as at the time of purported calls there existed a relationship which is still existing i.e. marriage. The Call Data also doesn't show that what conversation took place during the calls on the record.

7) PW-3, Jabir Hussain, father of complainant, has deposed that on 02.05.2020, her daughter, present complainant, informed him that accused was abusing her on her mobile phone and because of that reason, he took the mobile phone from his daughter and talked to the accused who, this PW asserted, also abused him and threatened him of dire consequences. The cumulative appreciation of evidence of PW-3 reveals that he has not supported the stance of her daughter because as per this PW, complainant informed him about accused having abused her on mobile phone while the case of prosecution is not of abusive language rather of threats to life, of bearing and making of view viral. Another important witness i.e. IO of the case has admitted that the complainant has moved many other applications apart from the present one, of which this case is registered. This fact makes the credibility of complainant questionable and creates doubt in a prudent mind about genuineness of the prosecution story.



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8) For the foregoing discussion, it can safely be hold that the prosecution has failed to prove the allegations against the accused facing trial. In the present case, no material is available against the accused. to substantiate the commission of such offence. Mere oral allegations of the complainant are insufficient to connect the accused with the commission of offence and this act is strictly prohibited by the Constitution, law and the Holy Quran. Apart from the above, it is also clear that the statements of the prosecution witnesses are full of contradictions, infirmities and discrepancies. Such statements cannot be made basis for conviction of the accused. Legally, in order to establish its case, prosecution is duty bound to furnish harmonized and coherent evidence in support of its case. For giving benefit of doubt to an accused, it is not necessary that there should be many circumstances creating doubts. Needless to say, even a single doubt, if found reasonable, is sufficient to warrant the acquittal of the accused not as a matter of grace and concession but as a matter of right. Similarly, no justification, much less plausible, has been furnished by the prosecution to convince the mind of court about the involvement of the accused. The rule of benefit of doubt is essentially a rule of prudence, which cannot be ignored while dispensing justice in accordance with law. It is well settled golden principle of the law that conviction must be based on unimpeachable evidence and certainty of guilt and any

ATTESTED

14 JUN 2022

Examiner Session Court Muzaffargarh



doubt arising in the prosecution case, must be resolved in favour of the accused.

9) To sum up above discussion, this court concludes that prosecution has failed to bring home the guilt of the accused beyond reasonable doubt, therefore, while extending benefit of doubt in favour of accused, the accused facing trial namely Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra is acquitted of the charge. Accused is on bail, therefore, he and his sureties are relieved from the liability of bail bonds. Case property, if any, be dealt with in accordance to law after expiry of period of appeal/revision.

10) File of this court be consigned to the record room after its compilation and completion.

Announced:  
30.05.2022

ATTESTED  
14 JUN 2022  
Examiner Sessions Court Mansehra

(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT/  
CHILD PROTECTION COURT/  
MANSEHRA.

CERTIFICATE:

Certified that this judgment consists upon (08) pages and every page has been checked, corrected and signed by me.

DATED: 30.05.2022

(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

CDNo 6561  
Date 03-6-2022  
Court Fee: —  
Urgent: —  
Total Fee: —  
Name Of Court M  
Date Of Comm. 14-6-2022  
Date Of Intimate. —  
Cause Of Delay —  
Date Of Delivery 14/6/2022

Accused/petitioner on ad-interim pre-arrest bail, while APP for the State present. Anela Kanwal (complainant) present. Record received and perused.

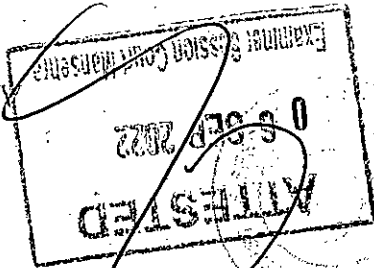
Accused/petitioner Awaiz Aslam son of Aslam Parvez Khan resident of Maniyar Bela Mansehra sought pre-arrest bail in case FIR No.1693 dated 31.12.2019 under sections 506(2) PPC, police station City Mansehra which was granted to him as interim relief on 02.01.2020.

Today at the very outset, complainant recorded her statement

before the court in which she stated that after registration of case, with efforts of elders of locality, she has amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. She has no objection if ad-interim pre-arrest bail of the accused/petitioner named above is confirmed on the basis of compromise. Similarly she would have no objection if on submission of complete challan above named accused/petitioner is acquitted on the basis of compromise. To this effect, compromise deed is Ex.PA, while copy of his CNIC is Ex.PB.

In view of statement of complainant and compromise deed Ex.PA, no purpose would be served by sending the accused/petitioner behind the bars, therefore, without touching merits of case, instant pre-arrest bail petition is allowed on the basis of compromise and ad-interim pre-arrest bail already granted to the accused/petitioner is confirmed on the strength of existing bail bonds.

Requisitioned record along with copy of this order be returned forthwith, whereas file of this court be consigned to Record Room after completion and completion.



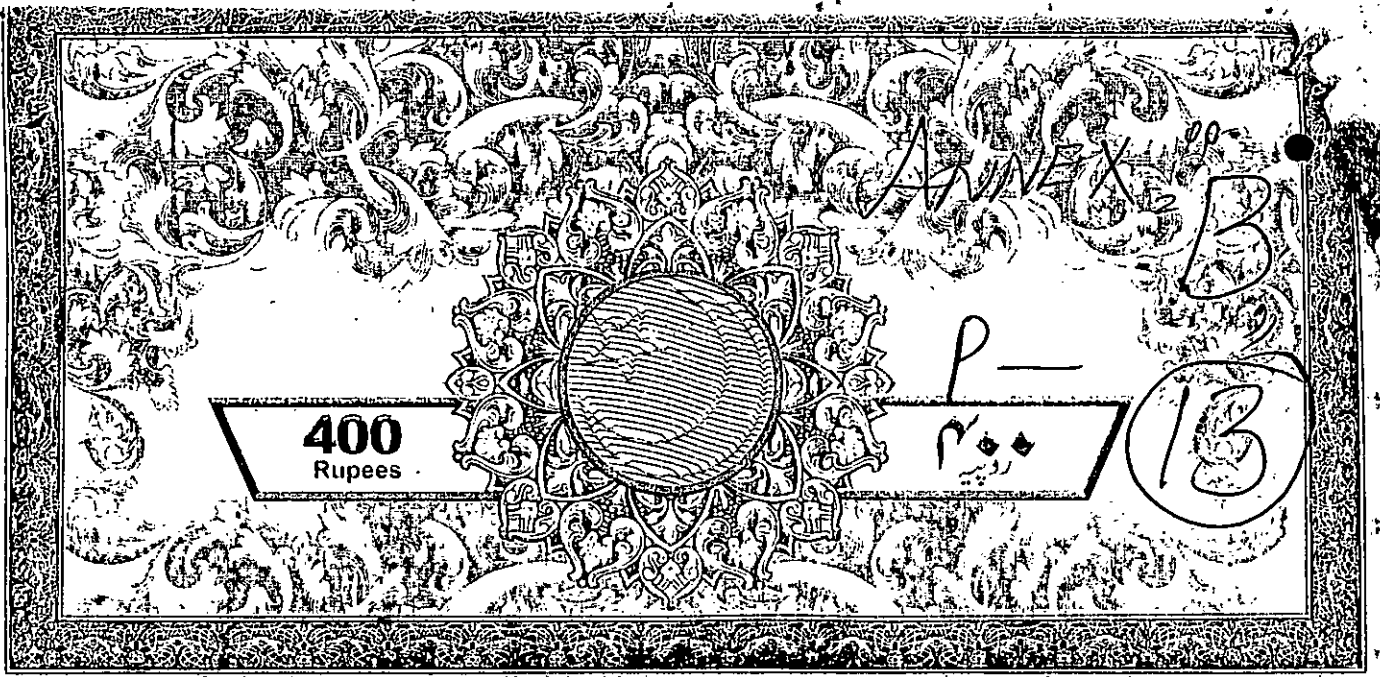
ANNOUNCED  
09.01.2020

(SYED ASGHAR SHAH)  
ADDITIONAL SESSIONS JUDGE-III,  
MANSEHRA.

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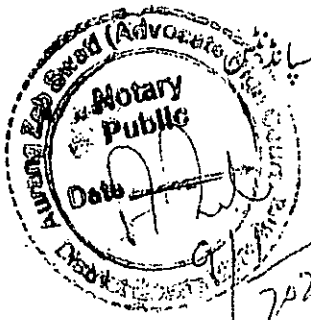
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CD No 9515  
Date 06-9-2022  
Court Fee 2  
Urgent         
Total Fee 6  
Name Of Applicant M  
Date Of Completion 06-9-2022  
Date Of Intimation         
Cause Of Delay         
Date Of Delivery 06/9/2022



## بلا دالت جناب ایڈیشنل سیشن جج صاحب (III) مانسہرہ

ATTESTED



ادین اسلام ولد اسلام پرویز ساکن بیلہ منڈ ہار حال محلہ ٹوٹری مانسہرہ ملازم ٹریک پولیس مانسہرہ..... سائل الملزم  
 سرکار بڈر ایچ ایچ کنول دختر صاحب حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ..... مستفیث ار سپانڈر

مقدمہ عدالت نمبر 1693 مورخہ 31.12.2019 جرم زیر دفعہ (2) 506 ت پ

فحاشی مانسہرہ

بیان حلفی بشکل راضی نامہ

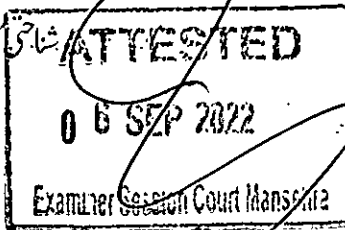
مکتہ مسماۃ انیلہ کنول دختر صاحب حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ کی ہوں۔ حلفاً بیانی و اقراری ہوں کہ من مقررہ کی رپورٹ پر مقدمہ عدوان بالا برخلاف ملزم عنوان بالا درج رجسٹرہ و واجوبہ میں ضمن مابین فریقین جرگہ برادری مستفیدہ و اور جرگہ میں مابین فریقین راضی نامہ و چکا ہے جس کے تحت من مقرر نے ملزم عنوان کوئی کیل انڈر حلف کر دیا ہے۔ من مقررہ اب ملزم عنوان کے خلاف مزید مقدمہ بازی کرنے کی خواہاں نہ ہوں۔ راضی نامہ فریقین کے بہتر مفاد میں ہے کیونکہ فریقین آپس میں خاوند بہوئی ہیں۔ ملزم عنوان جو کہ ضمانت قبل از گرفتاری پر عدالت ہذا سے رہا شدہ ہے، اگر اس کی ضمانت قبل از گرفتاری کفرم فرمائی جائے تو اس پر من مقررہ کو کوئی عذر و اعتراض نہ ہے۔ مزید جس وقت بھی چالان مکمل داخل عدالت مجاز ہوگا تو من مقررہ تحریری طور پر راضی نامہ پیش کر کے مقدمہ کو ختم کرنے کی پابند رہوں گی۔ اگر یوقت ٹرائل اسی راضی نامہ کی بناء پر ملزم عنوان کو مقدمہ عنوان سے بری بھی فرمایا جائے تو اس پر بھی من مقررہ کو کوئی عذر و اعتراض نہ ہے۔ لہذا بیان حلفی بشکل راضی نامہ درج و گواہان سنداً تحریر ہے۔

المقوم 09.01.2020

مسماۃ انیلہ کنول دختر صاحب حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ شناختی کارڈ نمبر 6-1388980-13503

شر اسلام ولد نورالاسلام ساکن بانڈہ لعل خان محلہ نظیر آباد مانسہرہ

13503-8785392-1 کارڈ نمبر 1-شناختی



13503-0165747-3 شناختی کارڈ نمبر 3

۱۳۵۵ - ۱۳۸۸ ۹۸۰ ۶  
۴۵۵/- ۰۹.۰۱.۲۰

بسم الله الرحمن الرحيم  
الحمد لله رب العالمين  
والصلاة والسلام على  
سيدنا محمد وآله الطيبين  
الطاهرين

Amir

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455/- 09.01.20

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ATTESTED  
06 SEP 2022  
Example Court Malaysia

about 30  
of men

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ANNEX "B"  
P-14

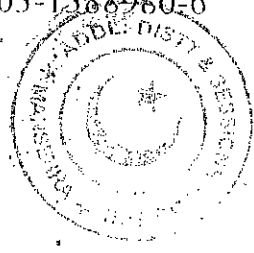
Statement of Aneela Kanwal daughter of Sabir Hussain aged about 34 years resident of Mohallah Kangar presently Qila Di Kasi Mansehra (complainant) on oath:

On my report, instant case was registered vide FIR No.1693 31.12.2019 u/s 506(2) PPC, Police Station City against accused/petitioner Awaiz Aslam.

After registration of case, with efforts of elders of locality, I have amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. I have no objection if ad-interim pre-arrest bail of the accused/petitioner named above is confirmed on the basis of compromise. Similarly if on submission of challan above named accused/petitioner is acquitted on the basis of compromise I would have no objection. To this effect, compromise deed is Ex.PA, which correctly bears my thumb impression and signatures of witnesses, while copy of my CNIC is Ex.PB. Original perused and returned.

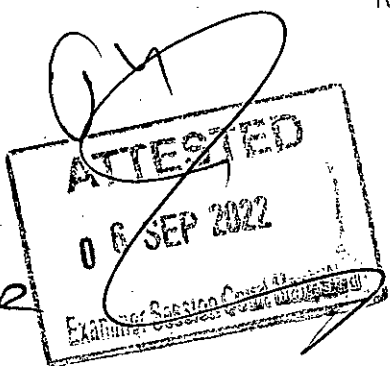
*Aneela Kanwal*  
Aneela Kanwal (complainant)  
CNIC No.13503-1388980-6

RO: & AC:  
09.01.2020



*Syed Asghar Shah*  
SYED ASGHAR SHAH,  
ADDL:SESSIONS JUDGE-III,  
MANSEHRA.

CD No 9515  
Date 06-9-2022  
Court Fee: \_\_\_\_\_  
Urgent: \_\_\_\_\_  
Total Fee: \_\_\_\_\_  
Name Of Deputy \_\_\_\_\_  
Date Of Constitution 06-9-2022  
Date Of Intimation \_\_\_\_\_  
Cause Of Delay ✓  
Date Of Delivery 06/9/2022



II

P-1

**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam son of Aslam Pervaiz resident of  
Atter Sheesha Tehsil and District  
Mansehra.....(Appellant)

**Versus**

DPO Mansehra etc.....**Respondents**

Subject: **SERVICE APPEAL**

**REJOINDER ON BEHALF OF APPELLANT**

**Preliminary objection:**

- A) Para No. A of the preliminary objection is incorrect.
- B) Para No. B of the preliminary objection is incorrect.
- C) Para No. C of the preliminary objection is incorrect.
- D) Para No. D of the preliminary objection is incorrect.
- E) Para No. E of the preliminary objection is incorrect.
- F) Para No. F of the preliminary objection is incorrect.

**ON FACTS:**

- 1) Para No. 1 of the facts is incorrect. No conviction has been recorded. In case FIR No. 1693 compromise has been effected whereas in case FIR No. 763 the appellant has been acquitted.

(Copy of Judgment dated 30.05.2022 in case FIR No. 763 is attached as Annexure "A" whereas the compromise effected in case FIR No. 1693 is annexed as Annexure "B")

- 2) Para No. 2 of the facts is incorrect.
- 3) Para No. 3 is incorrect. The appellant was deprived of the opportunities prescribed by law.



- 4) Para No. 4 is incorrect. The entire proceedings were not conducted in the eye of law laid down by law.
- 5) Para No. 5 is incorrect. No cogent reason have been given for not entertaining appeal of the appellant.

**ON GROUNDS:**

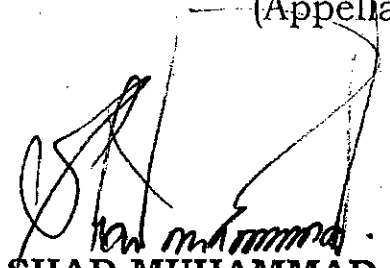
- A) Para No. A is incorrect.
- B) Para No. B is incorrect.
- C) Para No. C is incorrect.
- D) Para No. D is incorrect.
- E) Para No. E incorrect. There is no proof to established the involvement of appellant and vatrious cases.
- F) Para No. F is incorrect. The appellant was deprived of the statutory right granted to him by law.

**It is therefore,** requested that, the appeal may kindly be accepted.

**Dated: 08.10.2022**

**Awaiz Aslam**  
(Appellant)

Through:-



**SHAD MUHAMMAD KHAN**  
Advocate Supreme Court  
Of Pakistan, (Mansehra)

**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam.....(Appellant)

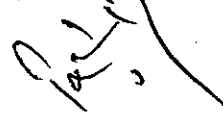
**Versus**

DPO Manshra etc.....Respondents

**AFFIDAVIT**

I, AWAIZ ASLAM SON OF ASLAM PERVAIZ RESIDENT OF ATTER SHEESHA TEHSIL AND DISTRICT MANSEHRA DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT NO SUCH SUBJECT MATTER WRIT PETITION HAS EVER BEEN FILED NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE COURT.

AWAIZ ASLAM  
(DEPONENT)



ATIL CU  
**EJAZ ALI SHAW**  
Advocate High Court  
Notary Public  
Date \_\_\_\_\_  
Distt. Mansehra

58/10  
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ANNEX "A"

Sessions Trial No.196/7 of 2020.

(The State VS Awaiz Aslam)



COURT OF AJMAL TAHIR,  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

P- (4)

Case No.....196/7 of 2020  
Date of Institution:.....21.01.2020  
Date of Decision:.....30.05.2022

THE STATE THROUGH ANILA KANWAL D/O JABIR HUSSAIN, CASTE MUGHAL, R/O QILLAY DI KASSI, TEHSIL AND DISTRICT MANSEHRA.

.....COMPLAINANT  
VERSUS

AWAIZ ASLAM S/O ASLAM PERVAIZ, CASTE AWAN, RESIDENT OF BAILA MUNDIHAR, TEHSIL & DISTRICT MANSEHRA.

.....ACCUSED FACING TRIAL

JUDGMENT

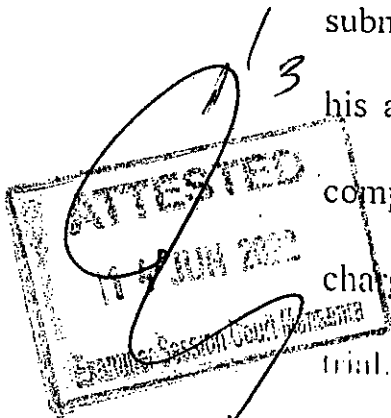
1) Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra, (herein after referred to as "accused") is facing trial in a case registered against him vide FIR No.763 dated 01.07.2020, under sections 506 PP/25-D Telegraph Act, registered at Police Station City, Mansehra.

2) Mst.Anila Kanwal had moved an application u/s 22-A Cr.PC before the learned Sessions Judge/Justice of Peace, Mansehra, which was entrusted to the court of learned ASJ-III, Mansehra for disposal. The complainant contended in her application that her Nikah was recited with the respondent Awaiz Aslam on 18.04.2011, however her husband neither allows her to breathe a sigh of relief nor pays her any maintenance during her

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**ATTESTED**  
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her husband extended life threats and asked her that he will kill her parents too. That, respondent is a mischievous person whose hobby is to play with the lives of girls. That, the respondent cheated her several times and then entered into compromise but used to retract from the terms of compromise, later on again turned from his obligations. That, the respondent entered into a written compromise with the complainant on 21.02.2020 that he will keep no relationship with one Mst.Nusrat Bibi but he concealed the fact that at the time of affecting compromise with the complainant, he had already contracted marriage/Nikkah with Mst.Nusrat Bibi on 16.07.2019, hence he made compromise with cheating and fraud. That, her dowry articles are in the possession of respondent and her second wife Mst.Nusrat Bibi, who used to break and damage the same. She prayed for registration of FIR against the respondent Awaiz Aslam. The application so submitted by the petitioner (now complainant) was allowed by the court of learned Addl; Sessions Judge-III, Mansehra vide order dated 22.06.2020, hence the instant FIR.

3) After completion of investigation, complete *challan* was submitted to the Court for trial. Accused was summoned and on his appearance, copies of case record were provided to him in compliance with the provisions of section 265-C Cr.PC. Formal charge was framed to which he pleaded not guilty and claimed trial. Prosecution was asked to produce its evidence and



prosecution produced (05) witnesses in support of its case. The gist of the prosecution witnesses is as under:

(i) PW-1 is the Statement of Complainant Mst.Anila Kanwal, who deposed that on 01.06.2020, she submitted a written application to DSP Headquarters Mansehra against her husband namely Awaiz Aslam, wherein she charged her husband for threatening her for dire consequences, if she created hurdle in his way, while he was contracting 3<sup>rd</sup> marriage, prior to this he also contracted 2<sup>nd</sup> marriage with me and divorced his 1<sup>st</sup> wife. Many altercations have taken place between them and many jirgas were convened by the different people, as result of which she had patched up the matter with her husband but he is still continued his activities and was in relation with some other females, whenever she tried to forbid him from such like activities he beaten her and threatened her for dire consequences. Prior to the registration of the instant case, he threatened her that he had her different videos which he will whirl if she resists forbidding him from such like activities. On the basis of her application before the Justice of Peace u/s 2-A Cr.PC, instant case was registered under section 506 PPC read-with Section 25-D Telegraph Act.

(ii) PW-2 is the Statement of Javed Khan SHO, P.S city Mansehra. The said PW submitted complete challan against the accused facing trial after completion of investigation.

(iii) PW-3 is the Statement of Jabir Hussain s/o Raj Muhammad. He deposed that Mst.Aneela is her real daughter, who was married with the accused Awaiz Aslam. On 02.5.2020, her daughter Aneela informed him

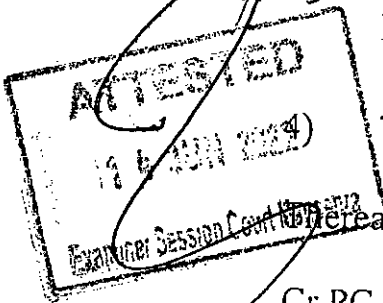


that accused is abusing her on her mobile phone, on which, he took the mobile from his daughter and talked to the accused, who also abused him and threatened him of dire consequences and he disconnected the call. The attitude of the accused with his daughter is very harsh, contemptuous and insulting during her Abadi. His statement u/s 161 Cr.P.C was also recorded by the I.O.

(iv) PW-4 is the Statement of Gul Nawaz Khan, ASHO Police Station City, Manshira. He stated that after registration of the case, investigation was marked to him. Accused in the present case obtained BBA and came to him and handed-over the order. He issued his formal card of arrest Ex.PW-4/1, in the meanwhile, his BBA was confirmed. Vide application, Ex.PW4/2, he requested for CDR of Mobile number mentioned in the application, however, before he could obtain the same, challan in the case was submitted. Later on, CDR was placed on file and is Ex.PW-4/3 (seven pages). He also recorded the statement of the accused and PWs u/s 161 Cr.P.C. After completion of investigation, he handed-over the file to the SHO for submission of challan in the court.

(v) PW-5 is the Statement of Nadim Khan ASI Police Station City, Manshira. This PW had chalked out FIR Ex.PA.

The prosecution closed its evidence being complete. Thereafter, statement of accused was recorded under section 342 Cr.PC, wherein all the pieces of evidence were placed before him in the question form and his reply to each question was accurately recorded. Accused was asked as to whether he wish to

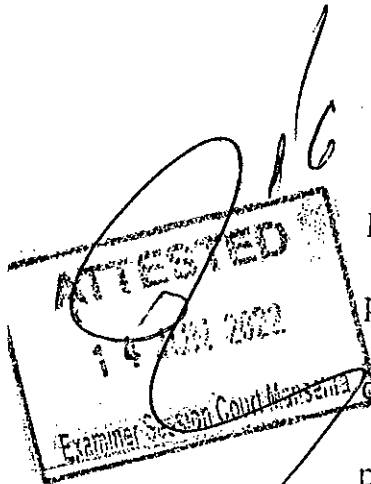
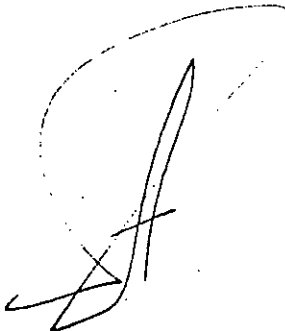


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record his statement on oath as his own witness in disproof of the allegations or whether he want to produce defence evidence in the light of provisions of section 340(2) Cr.PC, however, accused refused to record his statement on oath and did not opt to produce defense evidence.

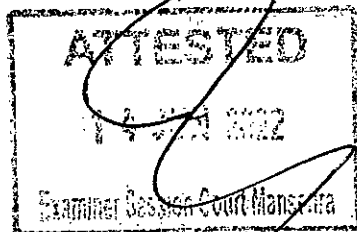
5) I have heard the learned counsel for the parties as well as learned Deputy Public Prosecutor for the State and perused the record, carefully.

6) Perusal of record reveals that in support of her stance, complainant Mst.Anila Kanwal has appeared as PW-1. In her examination-in-chief, she has made general allegations of threats to her life, of beating by accused facing trial and for making the videos public at the hands of accused. However, in her cross-examination, she admitted that she had not given date and time of threatening calls. She also admitted it correct that accused has not posted any video on the net. She also admitted it correct that at the time of submission of complaint to the DSP against accused facing trial, there was a family suit pending between the parties. In further support of the stance of the complainant, prosecution has placed on record some call data. The same call data is Ex.PW-4/3, however, it has not been proved through proper mode that the phone numbers mentioned in the same belong to and used by the accused facing trial and the



complainant herein. Even presuming, without holding, that the Call Data is actually of calls between accused and the complainant herein, it is of not much use to the prosecution as at the time of purported calls there existed a relationship which is still existing i.e. marriage. The Call Data also doesn't show that what conversation took place during the calls on the record.

7) PW-3, Jabir Hussain, father of complainant, has deposed that on 02.05.2020, her daughter, present complainant, informed him that accused was abusing her on her mobile phone and because of that reason, he took the mobile phone from his daughter and talked to the accused who, this PW asserted, also abused him and threatened him of dire consequences. The cumulative appreciation of evidence of PW-3 reveals that he has not supported the stance of her daughter because as per this PW, complainant informed him about accused having abused her on mobile phone while the case of prosecution is not of abusive language rather of threats to life, of bearing and making of view, viral. Another important witness i.e. IO of the case has admitted that the complainant has moved many other applications apart from the present one, of which this case is registered. This fact makes the credibility of complainant questionable and creates doubt in a prudent mind about genuineness of the prosecution story.





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8) For the foregoing discussion, it can safely be hold that the prosecution has failed to prove the allegations against the accused facing trial. In the present case, no material is available against the accused to substantiate the commission of such offence. Mere oral allegations of the complainant are insufficient to connect the accused with the commission of offence and this act is strictly prohibited by the Constitution, law and the Holy Quran. Apart from the above, it is also clear that the statements of the prosecution witnesses are full of contradictions, infirmities and discrepancies. Such statements cannot be made basis for conviction of the accused. Legally, in order to establish its case, prosecution is duty bound to furnish harmonized and coherent evidence in support of its case. For giving benefit of doubt to an accused, it is not necessary that there should be many circumstances creating doubts. Needless to say, even a single doubt, if found reasonable, is sufficient to warrant the acquittal of the accused not as a matter of grace and concession but as a matter of right. Similarly, no justification, much less plausible, has been furnished by the prosecution to convince the mind of court about the involvement of the accused. The rule of benefit of doubt is essentially a rule of prudence, which cannot be ignored while dispensing justice in accordance with law. It is well settled golden principle of the law that conviction must be based on unimpeachable evidence and certainty of guilt and any



doubt arising in the prosecution case, must be resolved in favour of the accused.

9) To sum up above discussion, this court concludes that prosecution has failed to bring home the guilt of the accused beyond reasonable doubt, therefore, while extending benefit of doubt in favour of accused, the accused facing trial namely Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra is acquitted of the charge. Accused is on bail, therefore, he and his sureties are relieved from the liability of bail bonds. Case property, if any, be dealt with in accordance to law after expiry of period of appeal/revision.

10) File of this court be consigned to the record room after its compilation and completion.

**Announced:**  
30.05.2022

ATTESTED  
30.05.2022  
Executive Sessions Court Mansehra

(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT/  
CHILD PROTECTION COURT/  
MANSEHRA.

**CERTIFICATE:**

Certified that this judgment consists upon (08) pages and every page has been checked, corrected and signed by me.

**DATED: 30.05.2022**

(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

7

12

BEFORE THE COURT OF SYED ASGHAR SHAH, ADDL. SESSIONS JUDGE-III, MANSEHRA.

BBA APPLICATION NO. 10/4 OF 2020

"AWAIZ ASLAM VS. THE STATE"

ORDER-03

09.01.2020.

Accused/petitioner on ad-interim pre-arrest bail, while APP for the State present. Aneela Kanwal (complainant) present. Record received and perused.

Accused/petitioner Awaiz Aslam son of Aslam Parvez Khan resident of Maniyar Bela Manshara sought pre-arrest bail in case FIR No.1693 dated 31.12.2019 under sections 506(2) PPC, police station City Manshara which was granted to him as interim relief on 02.01.2020.

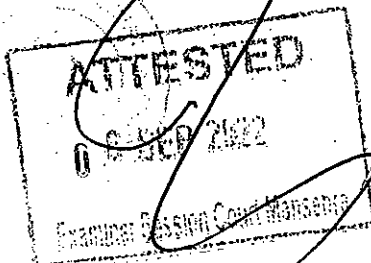
Today at the very outset, complainant recorded her statement before the court in which she stated that after registration of case, with efforts of elders of locality, she has amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. She has no objection if ad-interim pre-arrest bail of the accused/ petitioner named above is confirmed on the basis of compromise. Similarly she would have no objection if on submission of complete challan above named accused/petitioner is acquitted on the basis of compromise. To this effect, compromise deed is Ex.PA, while copy of his CNIC is Ex.PB.

In view of statement of complainant and compromise deed Ex.PA, no purpose would be served by sending the accused/petitioner behind the bars, therefore, without touching merits of case, instant pre-arrest bail petition is allowed on the basis of compromise and ad-interim pre-arrest bail already granted to the accused/petitioner is confirmed on the strength of existing bail bonds.

Requisitioned record alongwith copy of this order be returned forthwith, whereas file of this court be consigned to Record Room after compilation and completion.

ANNOUNCED.

09.01.2020.



(SYED ASGHAR SHAH)

ADDITIONAL SESSIONS JUDGE-III,  
MANSEHRA.



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بسم الله الرحمن الرحيم  
الحمد لله الذي هدانا لهذا  
ما كنا لنهتدي لولا أن هدانا الله

485/- 9.01.20

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بسم الله الرحمن الرحيم

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ATTENDED  
D. 1388 222  
Customs Board

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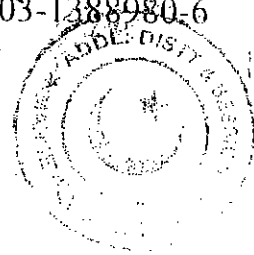
ANNEX "B"  
P-14

Statement of Aneela Kanwal daughter of Sabir Hussain aged about 34 years resident of Mohallah Kangar presently Qila Di Kasi Mansehra (complainant) on oath:

On my report, instant case was registered vide FIR No.1693/31.12.2019 u/s 506(2) PPC, Police Station City against accused/petitioner Awaiz Aslam.

After registration of case, with efforts of elders of locality, I have amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. I have no objection if ad-interim pre-arrest bail of the accused/petitioner named above is confirmed on the basis of compromise. Similarly if on submission of challan above named accused/petitioner is acquitted on the basis of compromise I would have no objection. To this effect, compromise deed is Ex.PA, which correctly bears my thumb impression and signatures of witnesses, while copy of my CNIC is Ex.PB. Original perused and returned.

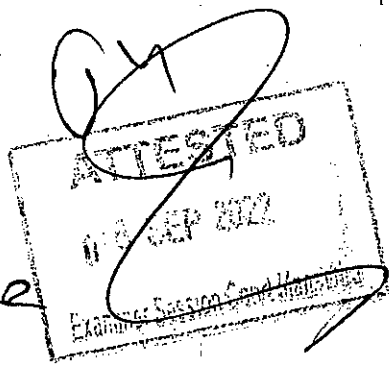
*Aneela Kanwal*  
Aneela Kanwal (complainant)  
CNIC No.13503-1388980-6



RO: & AC:  
09.01.2020

*Syed Asghar Shah*  
SYED ASGHAR SHAH,  
ADDL. SESSIONS JUDGE-III,  
MANSEHRA.

CD No. 9515  
Date 06-9-2022  
Court Fee                       
Urgent                       
Total Fee                       
Name Of Complainant M  
Date Of Complaint 06-9-2022  
Date Of Intimation                       
Cause Of Delay                       
Date Of Delivery 06/9/2022



AES

P-①

**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam son of Aslam Pervaiz resident of  
Atter Sheesha Tehsil and District  
Mansehra.....(**Appellant**)

**Versus**

DPO Mansehra etc.....**Respondents**

Subject: **SERVICE APPEAL**

**REJOINDER ON BEHALF OF APPELLANT**

**Preliminary objection:**

- A) Para No. A of the preliminary objection is incorrect.
- B) Para No. B of the preliminary objection is incorrect.
- C) Para No. C of the preliminary objection is incorrect.
- D) Para No. D of the preliminary objection is incorrect.
- E) Para No. E of the preliminary objection is incorrect.
- F) Para No. F of the preliminary objection is incorrect.

**ON FACTS:**

- 1) Para No. 1 of the facts is incorrect. No conviction has been recorded. In case FIR No. 1693 compromise has been effected whereas in case FIR No. 763 the appellant has been acquitted.

(Copy of Judgment dated 30.05.2022 in  
case FIR No. 763 is attached as Annexure  
"A" whereas the compromise effected in  
case FIR No. 1693 is annexed as Annexure  
"B")

- 2) Para No. 2 of the facts is incorrect.
- 3) Para No. 3 is incorrect. The appellant was deprived of the opportunities prescribed by law.

- 4) Para No. 4 is incorrect. The entire proceedings were not conducted in the eye of law laid down by law.
- 5) Para No. 5 is incorrect. No cogent reason have been given for not entertaining appeal of the appellant.

**ON GROUNDS:**

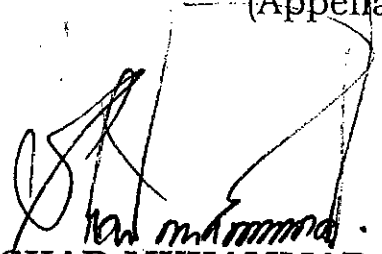
- A) Para No. A is incorrect.
- B) Para No. B is incorrect.
- C) Para No. C is incorrect.
- D) Para No. D is incorrect.
- E) Para No. E incorrect. There is no proof to established the involvement of appellant and vatrious cases.
- F) Para No. F is incorrect. The appellant was deprived of the statutory right granted to him by law.

**It is therefore,** requested that, the appeal may kindly be accepted.

**Dated: 08.10.2022**

**Awaiz Aslam**  
(Appellant)

Through: -

  
**SHAD MUHAMMAD KHAN**  
Advocate Supreme Court  
Of Pakistan, (Mansehra)



**BEFORE THE SERVICE TRIBUNAL KPK,**  
**PESHAWAR**

Awaiz Aslam.....(Appellant)

**Versus**

DPO Mansehra etc.....Respondents

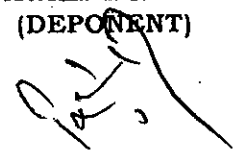
**AFFIDAVIT**

I, AWAIZ ASLAM SON OF ASLAM PERVAIZ RESIDENT OF ATTER SHEESHA TEHSIL AND DISTRICT MANSEHRA DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT NO SUCH SUBJECT MATTER WRIT PETITION HAS EVER BEEN FILED NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE COURT.

ATIL CU  
**EJAZ ALI SHAH**  
Advocate High Court  
Notary Public  
Date \_\_\_\_\_  
Distt. Mansehra

58/10/22

AWAIZ ASLAM  
(DEPONENT)



Sessions Trial No.196/7 of 2020.

(The State VS Awaiz Aslam)

ANNEX "A"



COURT OF AJMAL TAHIR,  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

P- (4)

Case No.....196/7 of 2020

Date of Institution:.....21.01.2020

Date of Decision:.....30.05.2022

THE STATE THROUGH ANILA KANWAL D/O JABIR HUSSAIN, CASTE MUGHAL, R/O QILLAY DI KASSI, TEHSIL AND DISTRICT MANSEHRA.

.....COMPLAINANT  
VERSUS

AWAIZ ASLAM S/O ASLAM PERVAIZ, CASTE AWAN, RESIDENT OF BAILA MUNDIHAR, TEHSIL & DISTRICT MANSEHRA.

.....ACCUSED FACING TRIAL

JUDGMENT

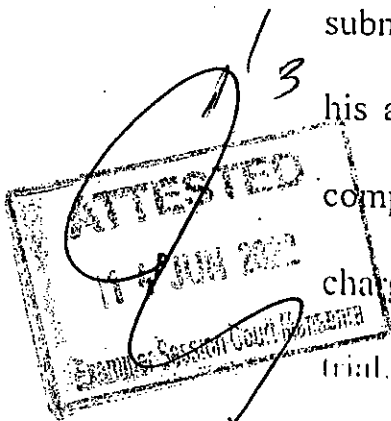
1) Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra, (herein after referred to as "accused") is facing trial in a case registered against him vide FIR No.763 dated 01.07.2020, under sections 506 PP/25-D Telegraph Act, registered at Police Station City, Mansehra.

2) Mst.Anila Kanwal had moved an application u/s 22-A Cr.PC before the learned Sessions Judge/Justice of Peace, Mansehra, which was entrusted to the court of learned ASJ-III, Mansehra for disposal. The complainant contended in her application that her Nikah was recited with the respondent Awaiz Aslam on 18.04.2011, however her husband neither allows her to breathe a sigh of relief nor pays her any maintenance during her

*[Handwritten signature]*  
**ATTESTED**  
12  
11/05/22  
Munsif Sessions Judge, Mansehra

her husband extended life threats and asked her that he will kill her parents too. That, respondent is a mischievous person whose hobby is to play with the lives of girls. That, the respondent cheated her several times and then entered into compromise but used to retract from the terms of compromise, later on again turned from his obligations. That, the respondent entered into a written compromise with the complainant on 21.02.2020 that he will keep no relationship with one Mst.Nusrat Bibi but he concealed the fact that at the time of affecting compromise with the complainant, he had already contracted marriage/Nikkah with Mst.Nusrat Bibi on 16.07.2019, hence he made compromise with cheating and fraud. That, her dowry articles are in the possession of respondent and her second wife Mst.Nusrat Bibi, who used to break and damage the same. She prayed for registration of FIR against the respondent Awaiz Aslam. The application so submitted by the petitioner (now complainant) was allowed by the court of learned Addl; Sessions Judge-III, Mansehra vide order dated 22.06.2020, hence the instant FIR.

3) After completion of investigation, complete *challan* was submitted to the Court for trial. Accused was summoned and on his appearance, copies of case record were provided to him in compliance with the provisions of section 265-C Cr.PC. Formal charge was framed to which he pleaded not guilty and claimed trial. Prosecution was asked to produce its evidence and



prosecution produced (05) witnesses in support of its case. The gist of the prosecution witnesses is as under:

(i) PW-1 is the Statement of Complainant Mst.Anila Kanwal, who deposed that on 01.06.2020, she submitted a written application to DSP Headquarters Mansehra against her husband namely Awaiz Aslam, wherein she charged her husband for threatening her for dire consequences, if she created hurdle in his way, while he was contracting 3<sup>rd</sup> marriage, prior to this he also contracted 2<sup>nd</sup> marriage with me and divorced his 1<sup>st</sup> wife. Many altercations have taken place between them and many jirgas were convened by the different people, as result of which she had patched up the matter with her husband but he is still continued his activities and was in relation with some other females, whenever she tried to forbid him from such like activities he beaten her and threatened her for dire consequences. Prior to the registration of the instant case, he threatened her that he had her different videos which he will whirl if she resists forbidding him from such like activities. On the basis of her application before the Justice of Peace u/s 2-A Cr.PC, instant case was registered under section 506 PPC read-with Section 25-D Telegraph Act.

(ii) PW-2 is the Statement of Javed Khan SHO, P.S city Mansehra. The said PW submitted complete challan against the accused facing trial after completion of investigation.

(iii) PW-3 is the Statement of Jabir Hussain s/o Raj Muhammad. He deposed that Mst.Aneela is her real daughter, who was married with the accused Awaiz Aslam. On 02.5.2020, her daughter Aneela informed him

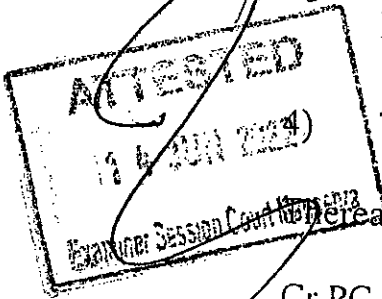


that accused is abusing her on her mobile phone, on which, he took the mobile from his daughter and talked to the accused, who also abused him and threatened him of dire consequences and he disconnected the call. The attitude of the accused with his daughter is very harsh, contemptuous and insulting during her Abadi. His statement u/s 161 Cr.P.C was also recorded by the I.O.

(iv) PW-4 is the Statement of Gul Nawaz Khan, ASHO Police Station City, Manshra. He stated that after registration of the case, investigation was marked to him. Accused in the present case obtained BBA and came to him and handed-over the order. He issued his formal card of arrest Ex.PW-4/1, in the meanwhile, his BBA was confirmed. Vide application, Ex.PW4/2, he requested for CDR of Mobile number mentioned in the application, however, before he could obtain the same, challan in the case was submitted. Later on, CDR was placed on file and is Ex.PW-4/3 (seven pages). He also recorded the statement of the accused and PWs u/s 161 Cr.P.C. After completion of investigation, he handed-over the file to the SHO for submission of challan in the court.

(v) PW-5 is the Statement of Nadim Khan ASI Police Station City, Mansehra. This PW had chalked out FIR Ex.PA.

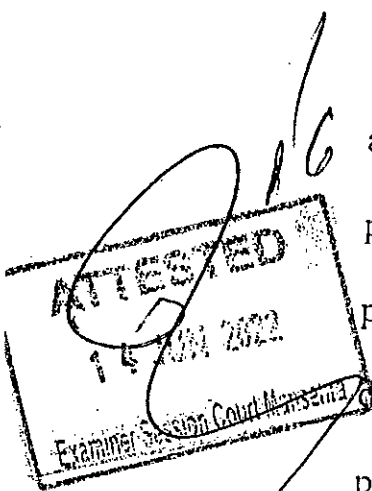
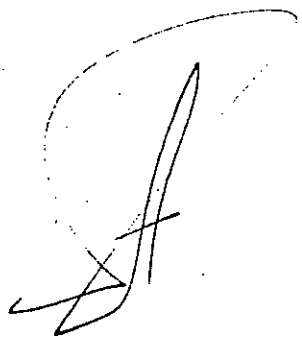
The prosecution closed its evidence being complete. Thereafter, statement of accused was recorded under section 342 Cr.PC, wherein all the pieces of evidence were placed before him in the question form and his reply to each question was accurately recorded. Accused was asked as to whether he wish to



record his statement on oath as his own witness in disproof of the allegations or whether he want to produce defence evidence in the light of provisions of section 340(2) Cr.PC, however, accused refused to record his statement on oath and did not opt to produce defense evidence.

5) I have heard the learned counsel for the parties as well as learned Deputy Public Prosecutor for the State and perused the record, carefully.

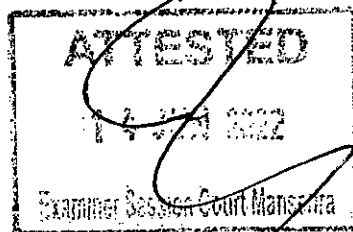
6) Perusal of record reveals that in support of her stance, complainant Mst.Anila Kanwal has appeared as PW-1. In her examination-in-chief, she has made general allegations of threats to her life, of beating by accused facing trial and for making the videos public at the hands of accused. However, in her cross-examination, she admitted that she had not given date and time of threatening calls. She also admitted it correct that accused has not posted any video on the net. She also admitted it correct that at the time of submission of complaint to the DSP against accused facing trial, there was a family suit pending between the parties. In further support of the stance of the complainant, prosecution has placed on record some call data. The same call data is Ex.PW-4/3, however, it has not been proved through proper mode that the phone numbers mentioned in the same belong to and used by the accused facing trial and the



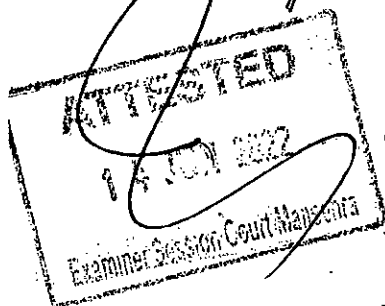
ATTESTED  
15/04/2022  
Examiner Session Court Mansera

complainant herein. Even presuming, without holding, that the Call Data is actually of calls between accused and the complainant herein, it is of not much use to the prosecution as at the time of purported calls there existed a relationship which is still existing i.e. marriage. The Call Data also doesn't show that what conversation took place during the calls on the record.

7) PW-3, Jabir Hussain, father of complainant, has deposed that on 02.05.2020, her daughter, present complainant, informed him that accused was abusing her on her mobile phone and because of that reason, he took the mobile phone from his daughter and talked to the accused who, this PW asserted, also abused him and threatened him of dire consequences. The cumulative appreciation of evidence of PW-3 reveals that he has not supported the stance of her daughter because as per this PW, complainant informed him about accused having abused her on mobile phone while the case of prosecution is not of abusive language rather of threats to life, of bearing and making of view viral. Another important witness i.e. IO of the case has admitted that the complainant has moved many other applications apart from the present one, of which this case is registered. This fact makes the credibility of complainant questionable and creates doubt in a prudent mind about genuineness of the prosecution story.



8) For the foregoing discussion, it can safely be hold that the prosecution has failed to prove the allegations against the accused facing trial. In the present case, no material is available against the accused to substantiate the commission of such offence. Mere oral allegations of the complainant are insufficient to connect the accused with the commission of offence and this act is strictly prohibited by the Constitution, law and the Holy Quran. Apart from the above, it is also clear that the statements of the prosecution witnesses are full of contradictions, infirmities and discrepancies. Such statements cannot be made basis for conviction of the accused. Legally, in order to establish its case, prosecution is duty bound to furnish harmonized and coherent evidence in support of its case. For giving benefit of doubt to an accused, it is not necessary that there should be many circumstances creating doubts. Needless to say, even a single doubt, if found reasonable, is sufficient to warrant the acquittal of the accused not as a matter of grace and concession but as a matter of right. Similarly, no justification, much less plausible, has been furnished by the prosecution to convince the mind of court about the involvement of the accused. The rule of benefit of doubt is essentially a rule of prudence, which cannot be ignored while dispensing justice in accordance with law. It is well settled golden principle of the law that conviction must be based on unimpeachable evidence and certainty of guilt and any



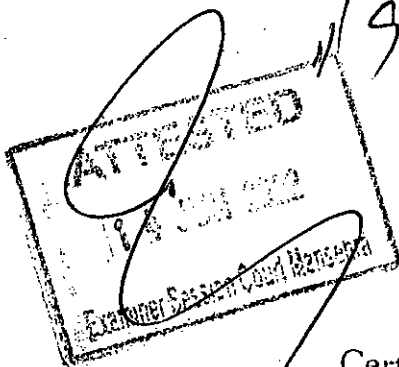


doubt arising in the prosecution case, must be resolved in favour of the accused.

9) To sum up above discussion, this court concludes that prosecution has failed to bring home the guilt of the accused beyond reasonable doubt, therefore, while extending benefit of doubt in favour of accused, the accused facing trial namely Awaiz Aslam S/o Aslam Pervaiz, resident of Baila Mundihar, Tehsil & District Mansehra is acquitted of the charge. Accused is on bail; therefore, he and his sureties are relieved from the liability of bail bonds. Case property, if any, be dealt with in accordance to law after expiry of period of appeal/revision.

10) File of this court be consigned to the record room after its compilation and completion.

Announced:  
30.05.2022



(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT/  
CHILD PROTECTION COURT/  
MANSEHRA.

CERTIFICATE:

Certified that this judgment consists upon (08) pages and every page has been checked, corrected and signed by me.

DATED: 30.05.2022

(AJMAL TAHIR),  
ADDITIONAL SESSIONS JUDGE-I/  
GENDER BASED VIOLENCE COURT,  
MANSEHRA.

7 12  
BEFORE THE COURT OF SYED ASGHAR SHAH, ADDL. SESSIONS JUDGE-III, MANSEHRA

BBA APPLICATION NO. 10/4 OF 2020

"AWAIZ ASLAM VS. THE STATE"

ORDER-03  
09.01.2020.

Accused/petitioner on ad-interim pre-arrest bail, while APP for the State present. Aneela Kanwal (complainant) present. Record received and perused.

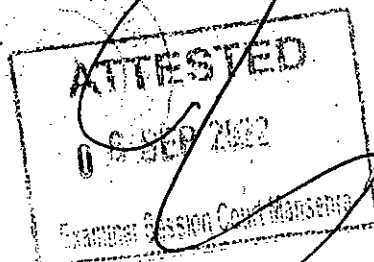
Accused/petitioner Awaiz Aslam son of Aslam Parvez Khan resident of Maniyar Bela Mansehra sought pre-arrest bail in case FIR No.1693 dated 31.12.2019 under sections 506(2) PPC, police station City Mansehra which was granted to him as interim relief on 02.01.2020.

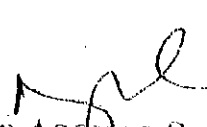
Today at the very outset, complainant recorded her statement before the court in which she stated that after registration of case, with efforts of elders of locality, she has amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. She has no objection if ad-interim pre-arrest bail of the accused/ petitioner named above is confirmed on the basis of compromise. Similarly she would have no objection if on submission of complete challan above named accused/petitioner is acquitted on the basis of compromise. To this effect, compromise deed is Ex.PA, while copy of his CNIC is Ex.PB.

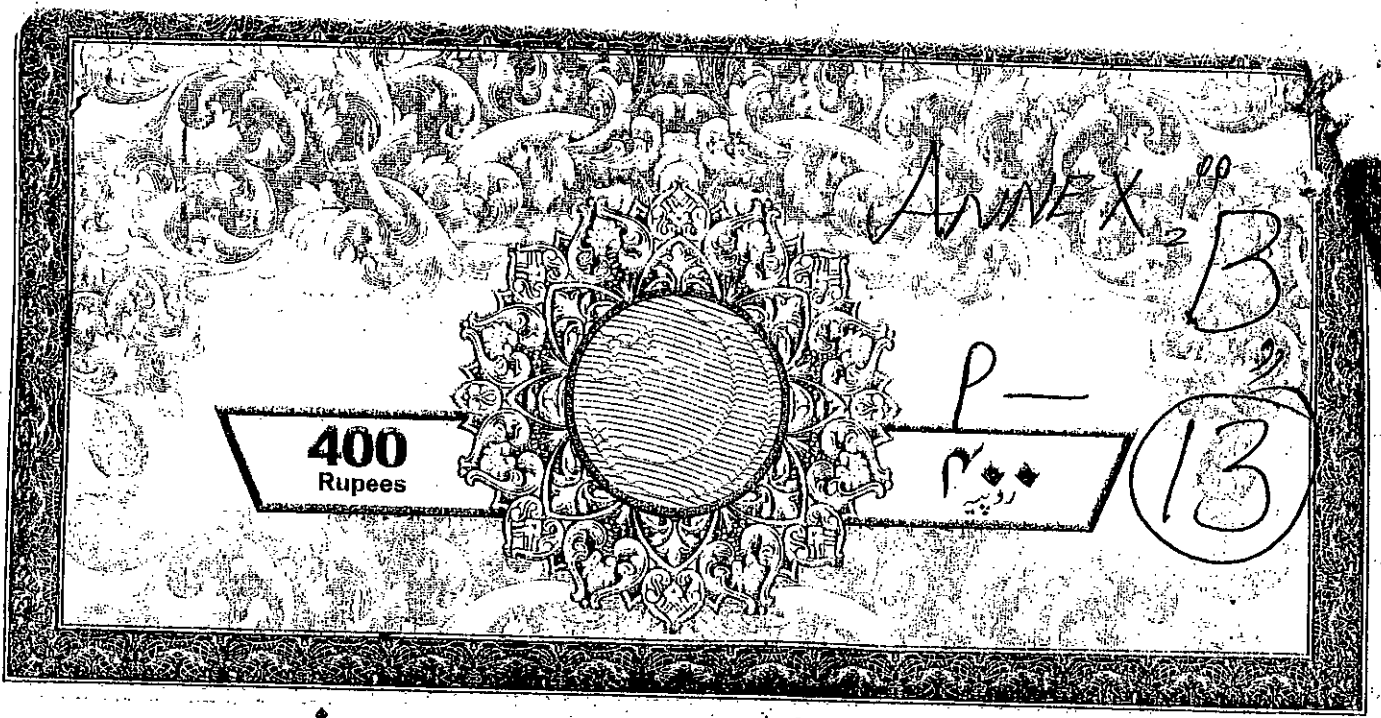
In view of statement of complainant and compromise deed Ex.PA, no purpose would be served by sending the accused/petitioner behind the bars, therefore, without touching merits of case, instant pre-arrest bail petition is allowed on the basis of compromise and ad-interim pre-arrest bail already granted to the accused/petitioner is confirmed on the strength of existing bail bonds.

Requisitioned record alongwith copy of this order be returned forthwith, whereas file of this court be consigned to Record Room after compilation and completion.

ANNOUNCED.  
09.01.2020.



  
(SYED ASGHAR SHAH)  
ADDITIONAL SESSIONS JUDGE-III,  
MANSEHRA.



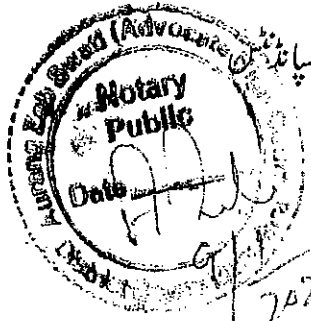
## بعدالت جناب ایڈیشنل سیشن جج صاحب (III) مانسہرہ

ATTESTED

ادیز اسلام ولد اسلام پرویز ساکن بیلہ منڈہار حال محلہ ٹوگڑی مانسہرہ ملازم ٹریفک پولیس مانسہرہ..... سائل الملزم

بنام

سرکار بڈریو اینڈ کنول دختر صابر حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ..... مستغیث ار سہیل



مقدمہ عدالت نمبر 1693 مورخہ 31.12.2019 جرم زیر دفعہ (2) 506 تپ

خانہ شی مانسہرہ

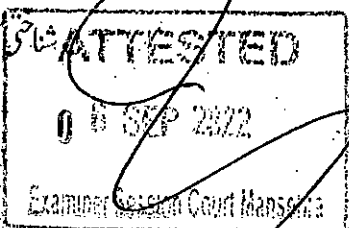
بیان حلفی بشکل راضی نامہ!

مکتہ مسماة اینڈ کنول دختر صابر حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ کی ہوں۔ حلفاً بیانی و اقراری ہوں کہ من مقررہ کی رپورٹ پر مقدمہ عنوان بالا برخلاف ملزم عنوان بالا اور جرحہ جرحہ ہوا جو بدیں ضمن مابین فریقین جرحہ برادری منعقد ہوا اور جرحہ میں مابین فریقین راضی نامہ ہو چکا ہے جس کے تحت من مقرر نے ملزم عنوان کوئی سبیل اندہ خوف کر دیا ہے۔ من مقررہ اب ملزم عنوان کے خلاف مزید مقدمہ بازی کرنے کی خواہاں نہ ہوں۔ راضی نامہ فریقین کے بہتر مفاد میں ہے کیونکہ فریقین آپس میں خواتم ہوئی ہیں۔ ملزم عنوان جو کہ ضمانت قبل از گرفتاری پر عدالت ہذا سے رہا شدہ ہے، اگر اس کی ضمانت قبل از گرفتاری کفترم فرمائی جائے تو اس پر من مقررہ کو کوئی عذر و اعتراض نہ ہے۔ مزید جس وقت بھی چالان مکمل داخل عدالت مجاز ہوگا تو من مقررہ تحریری طور پر راضی نامہ پیش کر کے مقدمہ کو ختم کرنے کی پابند ہوں گی۔ اگر بوقت ٹرائل اسی راضی نامہ کی بناء پر ملزم عنوان کو مقدمہ عنوان سے بری بھی فرمایا جائے تو اس پر بھی من مقررہ کو کوئی عذر و اعتراض نہ ہے۔ لہذا بیان حلفی بشکل راضی نامہ رو برو گواہان سنداً تحریر ہے۔

المرقوم 09.01.2020

مسماة اینڈ کنول دختر صابر حسین ساکن قلعہ دی کسی مانسہرہ تحصیل ضلع مانسہرہ شناختی کارڈ نمبر 6-1388980-13503

شہر اسلام ولد نور الاسلام ساکن بانڈہ لعل خان محلہ نظیر آباد مانسہرہ



شناختی کارڈ نمبر 1-8785392-13503

شناختی کارڈ نمبر 3-0165747-13503

بسم الله الرحمن الرحيم  
الحمد لله الذي هدانا لهذا  
الذي كنا لنهتدي لولا  
هدايتنا ربنا العليم

*(Handwritten signature)*

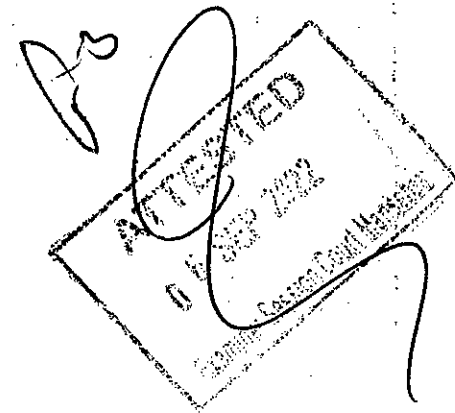
98/- 09.01.20

13503-1388980

بسم الله الرحمن الرحيم

*(Handwritten signature)*

*(Large handwritten signature)*



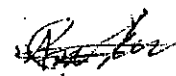
(13)

ANNEX "B"  
P-(14)

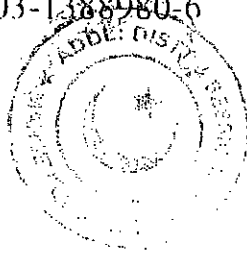
Statement of Aneela Kanwal daughter of Sabir Hussain aged about 34 years resident of Mohallah Kangar presently Qila Di Kasi Mansehra (complainant) on oath:

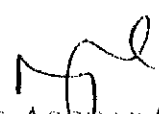
On my report, instant case was registered vide FIR No.1693/31.12.2019 u/s 506(2) PPC, Police Station City against accused/petitioner Awaiz Aslam.

After registration of case, with efforts of elders of locality, I have amicably compromised the matter with the accused/petitioner named above. Compromise is without any duress etc and is in the best interest of the parties as they are husband and wife. I have no objection if ad-interim pre-arrest bail of the accused/petitioner named above is confirmed on the basis of compromise. Similarly if on submission of challan above named accused/petitioner is acquitted on the basis of compromise I would have no objection. To this effect, compromise deed is Ex.PA, which correctly bears my thumb impression and signatures of witnesses, while copy of my CNIC is Ex.PB. Original perused and returned.

  
Aneela Kanwal (complainant)  
CNIC No.13503-1388980-6

RO: & AC:  
09.01.2020



  
SYED ASGHAR SHAH,  
ADDL:SESSIONS JUDGE-III,  
MANSEHRA.

CD No 9515  
Date 06-9-2022  
Court Fees \_\_\_\_\_  
Urgent:   
Total Fees \_\_\_\_\_  
Name Of Copy of \_\_\_\_\_  
Date Of Copy of 06-9-2022  
Date Of Intimation \_\_\_\_\_  
Cause Of Delay \_\_\_\_\_  
Date Of Delivery 06/9/2022

