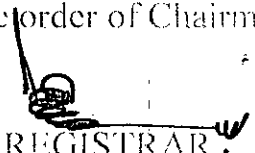


# FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_

721/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/03/2023	<p>The appeal of Mr. Sartaj Khan resubmitted today by Mr. Akbar Yousaf Khalil Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p>  <p>REGISTRAR.</p>

The appeal of Mr. Sartaj Khan son of Muhammad Ajmal Khan Ex-Constable no. Traffic Police Peshawar received today i.e. on 24.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is not signed by the appellant.
- 2- Copy of reply to charge sheet mentioned in para-4 of the memo of appeal is not attached with the appeal.
- 3- Copy of departmental appeal attached with the appeal is incomplete.

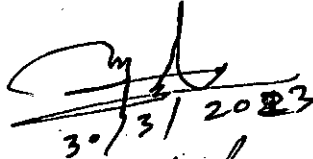
No. 1026 /S.T,

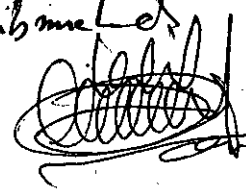
Dt. 28/03 /2023



REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Akbar Yousaf Khalil Adv.  
High Court at Peshawar.

  
30/3/2023

objection removed & re submitted  


**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE**  
**TRIBUNAL, PESHAWAR.**

Service Appeal No. 721 /2023

Sartaj Khan .....(Appellant)

**V E R S U S**

Chief Capital Police Officer (CCPO) Peshawar.

And another.....(Respondents)

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the Parties		8
4.	Copy of F.I.Rs	A & A/1	9, 10
5.	Copies of Charge Sheet and reply	B & C	11
6.	Copy of office order No. 624-87/PA, Dated Peshawar the 29/12/2020	D	12
7.	Copies of acquittal orders dated 28/09/2022 and 16/01/2023	E & F	13-47 48-56
8.	Copies of departmental appeal and order dated 04/02/2003	G	57-59
9.	Wakalat Nama		

Appellant

Through

**Akbar Yousaf Khalil**

&

**Muhammad Ayaz Khan**  
Advocates High Court,  
Peshawar.  
Cell No. 0333-9888231

Dated: 24/03/2023

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE  
TRIBUNAL, PESHAWAR.**

Service Appeal No: 721 /2023

Sartaj Khan S/o Muhammad Ajmal Khan (Ex-Constable No. 248) Traffic Police Peshawar.....(Appellant)

**V E R S U S**

1. Chief Capital Police Officer (CCPO) Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.....(Respondents)
- 3) *supremendent police HQRS city traffic police head quarters peshawar (respondents)*

**APPEAL UNDER SECTION 4 OF KHYBER  
PUKHTUNKHWA SERVICE TRIBUNAL ACT  
1974, AGAINST THE IMPUGNED ORDER  
DATED 04/02/2023 PASSED BY THE  
RESPONDENT No. 1, WHEREBY THE  
APPELLANT REINSTATED IN SERVICE  
BUT WITHOUT BACK BENEFITS.**

**Respectfully Sheweth:**

Facts giving rise to the instant Service Appeal are as under:

1. The Appellant was serving as constable in the Police Department Khyber Pakhtunkhwa District Peshawar.

2. That the Respondent is the administering staff and authority responsible for supervision, operation and management of Police in District Peshawar.
3. That in the year 2009 the appellant services was transferred was posted to Traffic Police Peshawar and the appellant was performing his duty with zeal and dedication and was falsely charged in case FIR No. 447 dated: 02/04/2020, Under Section 302, 324, 458, 460, 148, 149 PPC registered at Police Station Mathra, Peshawar and in case F.I.R No. 18 dated 05/01/2020 u/s 324 PPC, Police Station Khazana, Peshawar. (Copy of F.I.Rs are attached as annexure "A" & "A/1").
4. That thereafter charge sheet with summary of allegations was issued which was replied accordingly rebutting the allegations. (Copies of Charge Sheet and reply are attached as annexure "B" & "C" respectively).
5. That the Enquiry Officer submitted his report before the respondent and the respondent No. 1 awarded major punishment of Dismissal from Service vide

office order No. 624-87/PA, Dated Peshawar the 29/12/2020. (Copy of office order No. 624-87/PA, Dated Peshawar the 29/12/2020 is attached as annexure "D").

6. That thereafter the trial of the appellant in Case F.I.R No. 447 was concluded by the learned Additional Sessions Judges-XIII and IX, Peshawar vide orders dated 28/09/2022 and 16/01/2023 and the appellant has been acquitted from the charges leveled against him. (Copies of acquittal orders dated 28/09/2022 and 16/01/2023 are attached as annexure "E" & "F").
  
7. That dissatisfied from the order dated 29/12/2020 of Respondent No. 1, the appellant filed Departmental Appeal/ Representation before the respondent No. 1, the respondent No. 1 reinstate the appellant but the period the appellant remained out of service is ordered to treated as leave without pay vide order dated 04/02/2003. (Copies of departmental appeal and order dated 04/02/2003 are attached as annexure "G").

8. That having no other adequate, efficacious, alternate remedy, the appellant approaches this Hon'ble Tribunal for redressal of his grievances, inter-alia on the following grounds:

**GROUND:**

- A. That the order of respondent No. 1 by non granting of back benefits to the appellant is illegal, unlawful, against the facts and circumstances of the case, therefore needs interference of this Hon'ble Tribunal.
- B. That respondent No. 1 totally ignored that the appellant acquitted from the charged leveled against him, and passed the order in very cursory manners.
- C. That appellant has falsely been implicated in the concocted and fabricated case F.I.R No. 447 which is thereafter proved from the acquittal orders of the trial Courts, therefore the absence from service is not on the part of appellant, therefore not granting of back benefits have no legal footing in the eyes of law.

- D. That appellant has been rendering meritorious services having illustrious career, spreading over many years and have earned respect from his seniors in various moments, similarly the integrity of the appellant has never been called into question by anyone in the entire department.
- E. That the impugned action is violative of law laid down by the apex Courts, therefore, not granting of back benefits shall be based not only on relevant law and rules but also to be based on some tangible material relating to merit and eligibility which could be lawfully taken note of. It is the duty of competent Authority to consider all the material to find out the actual facts of the case.
- F. That the impugned action of the official Respondent is also repugnant to the Constitution of the Islamic Republic of Pakistan 1973 as the appellant has been treated discriminately by the Respondent and similarly appellant has been deprived of his lawful right, hence the impugned action of the Respondent is liable to be interfered with on the basis of law laid down by the Superior Courts of Pakistan. Departmental Authorities are bound to decide the



grievance of their subordinates with application of independent judicial mind, fairly, justly and with reasons and those reasons must be communicated to the concerned, whereas in the instant matter the Respondent has acted in sheer violation of natural justice and prescribe law.

G. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is therefore, respectfully prayed that, on acceptance of this appeal, the impugned order dated 08/04/2021 may graciously be set aside to the extent of not granting of back benefits, and the respondents may kindly be directed to modified the reinstatement order with granting all back benefits.

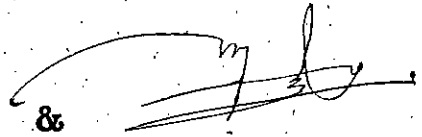
Any other relief which deems appropriate fit may also be given/ granted.

Appellant

Through

  
**Akbar Yousaf Khalil**

&

  
**Muhammad Ayaz Khan**  
Advocates High Court,  
Peshawar.

Dated: 24/03/2023

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE**  
**TRIBUNAL, PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2023

Sartaj Khan .....(Appellant)

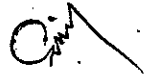
**V E R S U S**

Chief Capital Police Officer (CCPO) Peshawar.

And another.....(Respondents)

**AFFIDAVIT**

I, **Sartaj Khan** S/o Muhammad Ajmal Khan (Ex-Constable No. 248) Traffic Police Peshawar, solemnly affirm and declare on oath, that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



**DEPONENT**

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE  
TRIBUNAL, PESHAWAR.**

Service Appeal No: \_\_\_\_\_/2023

Sartaj Khan .....(Appellant)

**V E R S U S**

Chief Capital Police Officer (CCPO) Peshawar.

And another.....(Respondents)

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Sartaj Khan S/o Muhammad Ajmal Khan (Ex-Constable No. 248) Traffic Police Peshawar.

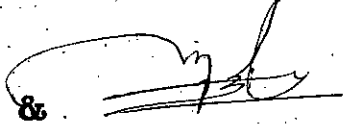
**RESPONDENTS:**

1. Chief Capital Police Officer (CCPO) Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Appellant

Through

  
**Akbar Yousaf Khalil**

  
&  
**Muhammad Ayaz Khan**  
Advocates High Court,  
Peshawar.

Dated: 24/03/2023





Amma...  
B U

B

**CHARGE SHEET**

1. WHEREAS I am satisfied that a formal enquiry as contemplated by Police Rule 1975 is necessary and expedient.

2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.




3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, WASEEM AHMAD KHALIL, Chief Traffic Officer, Peshawar hereby charge you HCTO Sart Khan No.248 under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:-

i) That you were involved in criminal case vide FIR No.447, dated 03.04.202 U/S 302/324/458/460/148/149 PPC, PS Mathra, Peshawar.

4. By doing this you have committed gross misconduct on your part.

5. AND I hereby direct you further under Rule 6 (1) (b) of the said Rules to put written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state whether you desire to be heard in person.

6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, ex parte action will be taken against you.

  
( WASEEM AHMAD KHALIL )  
CHIEF TRAFFIC OFFICER,  
PESHAWAR.   
(Competent Authority) 

Handwritten text in Urdu script, appearing to be a list or detailed notes. The text is heavily obscured by noise and artifacts, making it largely illegible. It seems to contain several lines of text, possibly organized in a list format.

Handwritten signature or name at the bottom of the main text block.

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خدا تعالیٰ: من سائل رسول اللہ صلی اللہ علیہ وسلم عرفاً بر ما یقول

یہ کہ بوقت وقوعہ میں سائل رسول اللہ نہ تو موقع پر موجود تھا

اور نہ ہی وقوعہ پر آئے مگر ان کوئی علم ہے۔ نہ میں دیگر علم تو ہے

وقوعہ میں علوت ہوں مجھے مطلقاً پوچھنے کے ذات دوسرے

دینے تک سے / اپنے رہائشی ملک کے خواب دیدہ حالت میں اٹھا کر لے گیا

تھیں اور میرے اہل خانہ کو اس انرضان واقعہ کی خبر بھی تھی

خدا تعالیٰ من سائل رسول اللہ صلی اللہ علیہ وسلم عرفاً بر ما یقول - جبہ دیگر ملنے

میں سائل رسول اللہ صلی اللہ علیہ وسلم اور اس وقت سے مجھے کسی FIR

میں نامہ کیا گیا تھا۔ نہ میں مقدمہ پڑا میں کوئی دور و گلوب نہ پڑا

خدا تعالیٰ کے خلاف کسی جرم میں دیکھ کر خود لپٹا لینا جس آباؤ میں

جسٹس کا آغاز اپنے سپرد میں آدے کی اور میں سائل رسول اللہ صلی اللہ علیہ وسلم

شرکاء نمازی نماز عشاء میں موجود تھے جس میں دیگر اہل بیت

دیکھ بیان خلفاء و دین چلے میں اور میرے ماؤں کے عور کے ساتھ

تاہم کہ میں خلفاء بیان کھنے کے چلے میں دیکھ اس کے لوگوں کو

پڑھنے پر خلفاء بیان دینا اور ضابطہ کے ساتھ کھنے خلفاء بیان دینے

لے لے گیا میں۔ سو کے پر بیٹ لوگوں کے کہ وہ نہ ماؤں میں

موجود ہوتے ہیں۔ اور اس امر کے لئے ہی عور کے جس میں دیگر ماؤں  
پار کا جو تہہ و سہرہ رشتہ دلچھ کوئی فرد نہ / ملنے کوئی اور



14

صاحب علی سے تو آج تک ہرگز اپنے ذہنی کام سے  
 اور محکمہ پوسٹ کی ذہنی سے کوئی کوئی غلط قدم نہ لیا گیا  
 جانے وقوعہ سے پہلے تو تقریباً 3/4 ملو میٹر کا معاملہ ہو گیا  
 اور مقدمہ زیر سماعت ہے۔ لہذا یہ تعمیراتی امور کسی حد تک مقرر  
 دیا جائے کیونکہ مقدمہ پورا نہیں ہو سکا۔ شمولیت محض پر نہیں درنا  
 گوئی اور شہادت کی بھی کوئی بنیاد نہیں ہے۔ پوسٹ سرورس میں سے  
 ہر قانون پر عمل ہونے میں کسی قسم کی طرف اور کسی صحیحانہ  
 کیوں ہے وہاں یا باہر نہیں گیا ہے

لہذا استدعا ہے کہ اس مسئلہ کو باخبر ہونے  
 پر بری زمرہ قرار دینے کے اوصاف کا حصار  
 فرمایا جائے

الموافق 13-08-2020

سائل (سوال اللہ) سر ناخدا ولد اجمل کا شکل پوسٹ میں  
 نذر ہے آجکل حال والد اللہ


ORDER

This is an order on the departmental enquiry initiated against Constable Sartaj Khan No.248 for involvement in case FIR No.447, dated 03.04.2020 U/S 302/324/458/460/148/149 PPC, PS <sup>mathra</sup> Umar, district Peshawar. He was charge sheeted and DSP/Cantt. Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

He submitted his reply to the charge sheet stating therein that a fight incident took place between his relatives and the opponent party, at about 3 km away from his village. He also told that he was unaware of the whole incident but during midnight at 02 am while sleeping, SHO Mathra along with police party raided his house and arrested him and his brother falsely implicated by the opponent party in the FIR in which 4 persons were died and 05 other injured. The Enquiry officer recorded statements of Police officials and other relevant people and came to the conclusion that he had failed to prove his innocence, therefore, recommended him for suitable punishment as the accused constable is in jail who was arrested by the local police immediate after the occurrence.

Besides the above case, the accused constable had also been involved in case vide FIR No.18, dated 05.01.2020 U/S 324 PPC, PS Khazana, and a departmental enquiry had also been conducted against him. Keeping in view recommendation of the Enquiry Officer as well as the case file, Constable Sartaj Khan No.248 is awarded major punishment of Dismissal from Service under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect.

Order announced.

  
SUPERINTENDENT OF POLICE, HQRS.  
CITY TRAFFIC POLICE, PESHAWAR.

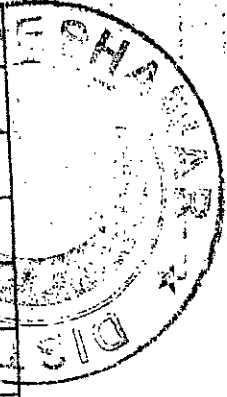
No. 124-87 /PA, Dated Peshawar the 29/12/2020.  
Copies for information and necessary action to the:-

1. Chief Traffic Officer, Peshawar.
2. Accountant
3. OSI
4. SRC (along-with complete enquiry file consisting of 139 pages)

انڈیکس

بندالت جناب ..... محمد طاہر اور نگزب، AD&SJ-IX، شماره

تعداد	فیلہ	اصل رجوعہ	رجوعہ	مقدمہ نمبر
5/3	16/1/23	21/10/20	6/10/22	60/51
سر 16، سر 16، سر 16				
نوعیت کاغذات				
بسته 3				
	انڈیکس	1	10	1
	22	22	22	2
	20	20	24	3
	3	3	54/56	4
	1	1	57	5
	70	70	58/128	6
	22	22	129/136	7
	326	326	137/147	8
	5	5	478/503	9
	5	5	504/508	10
	5	5	509/513	11
			5/3	بسته 3
			20	بسته 20
Checked and found correct.				



کل قطعات 33 داخل دفتر شد

دستخط محمد طاہر

ایڈیشنل ڈسٹرکٹ ایڈووکیٹ جی. اے. ایف. ایف.

ATTESTED  
(Examiner)  
District Court Peshawar

IN THE COURT OF MUHAMMAD TAYYIB,  
ADDITIONAL SESSIONS JUDGE-VIII, PESHAWAR

The State etc ... Vs... Sartaj.

FIR No.447 dated 3.4.20 u/s.302, 324, 458,460,148,149, 337-A(i), F-II in P.P.C.  
Mathra.,Peshawar

CHARGE



I. **Muhammad Tayyib**, Additional Sessions Judge-VIII, Peshawar, do hereby charge you accused namely, Peshawar as under:-

- 1. Sartaj Khan s/o Ajmal Khan aged about 41/42 years R/o Hassan-Abad
- 2. Salman Shah s/o Jaffar Shah aged about 29/30 years r/o Shenday Kaley Mathra
- 3. Liaqat Ali Shah aged about 45 years
- 4. Said Ghani Shah sons of Mastan Shah aged about 36/37 years both residents of Shenday Kaley Mathra.
- 5. Niaz Ali Shah s/o Said Wali Shah aged about 40/41 years r/o Shenday Kaley Mathra

59

**Firstly**, that on 02.4.2020 at about 2130 hours at the Bhaitak of complainant situated at Sheenday Kalay, within the criminal jurisdiction of Police Station Mathra, District Peshawar you accused along with absconding co-accused being members of unlawful assembly while duly firearm with weapon of offence with the common object to commit an offence of rioting and thus you all accused have committed an offence which is punishable u/s.148/149 PPC and within the cognizance of this court.

**Secondly:-**

That on the above date, time & place, you all accused along with absconding co-accused entered the house of complainant while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Abdul Majid, Farman Ullah, Murad Ali, Nabi Gul got hit and died and thus you all have committed an offence punishable u/s.302/149 PPC with four counts and within cognizance of this court.

**Thirdly:-**

That on the above date & time, place, you all accused along with absconding co-accused entered the house of complainant while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party with intention to kill them, as a result of which Inam Ullah, Irfan Ullah, Ihsan Ullah, Mst. Razia & Sahib Noor got hit and injured while the complainant namely Ishfaq Ahmad remained unhurt and thus you all have committed an offence punishable u/s.324/149 PPC with five counts and within cognizance of this court.

*[Handwritten signature]*

ATTESTED

22 MAR 2020

**Fourthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence entered the house of complainant party in order to commit their murder and thus you all have committed an offence punishable u/s.449/149 PPC with four counts and within cognizance of this court

**Fifthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Inam Ullah received injuries in his chest, forearm, upper arm & thus you all have committed an offence punishable u/s.337-D/337-F(ii) PPC and within cognizance of this court.

**Sixthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Ihsan Ullah received injuries in his left neck & forehead & thus you all have committed an offence punishable u/s.337-F(ii) PPC and within cognizance of this court.

**Seventhly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Irfan Ullah received injuries in his left leg & left hand & thus you all have committed an offence punishable u/s 337-F(1)/337-A(i) PPC and within cognizance of this court.

**Eighthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Mst. Razia Bibi received injuries in her chest which resulted in fracture of fifth rib & thus you all have committed an offence punishable u/s.337-F(5) PPC and within cognizance of this court.

**Ninthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon the complainant party, as a result of which Sahib Noor received injuries in his left leg, & thus you all have committed an offence punishable u/s.337-F(1) PPC within cognizance of this court.

**Tenthly:-**

That on the above date, time & place, you all accused along with absconding co-accused while duly armed with weapon of offence and opened indiscriminate firing upon

**ATTESTED**

22 MAY 2012

the complainant party, as a result of which the main gate & walls of house of the complainant hit and got damaged and thus you all have committed an offence punishable u/s.427/149 PPC and within cognizance of this court

And I hereby direct that you be tried by this court on the aforesaid charges.

(Muhammad Tayyib)  
Additional Sessions Judge-VIII, Peshawar

Note: The charge has been read over and explained to accused in their own language.

Q. Have you heard and understood the charge?

A. Yes.

Q. Do you want to plead guilty or claim trial?

A. We plead not-guilty and claim trial.

RO & AC  
25.11.2020

Accused Sariaj Khan

Accused Salman Shah

Accused Liaqat Ali Shah

Accused Saif Ghani Shah

Accused Niaz Ali Shah

(Muhammad Tayyib)  
Additional Sessions Judge-VIII, Peshawar

Certificate U/S 364 Cr.PC

Certified that the charge has been framed in my presence and on my dictation and read over and explained to accused in their native language.

(Muhammad Tayyib)  
Additional Sessions Judge-VIII, Peshawar

ATTESTED

22 MAR 2023

(Examiner)

District Court Peshawar

56

(17)

**IN THE COURT OF MUHAMMAD TAHIR AURANGZEB  
ADDITIONAL DISTRICT JUDGE -IX, PESHAWAR**

Sessions Case No. 60 of 2022  
**The State .....Vs..... Sartaj Khan & Others**

**ORDER(Contd)**

16.01.2023

The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted u/s 427/149 PPC and sentenced to 01 year rigorous imprisonment and fine of Rs.100,000/- (Rupees One Lax).

Accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah will remain in custody till the payment of Damian and Arsh.

Benefit of section 382-B Cr.P.C is extended to accused and all the punishments shall run concurrent.

A copy of this judgment be given to the accused free of cost within the meaning of Section 371 Cr.P.C while a copy be transmitted to the learned DPP, Peshawar within the meaning of Section 373 Cr.P.C.

Record be returned while file of this court be consigned to the record room after necessary completion and compilation.

**Announced**  
16.01.2023

  
Muhammad Tahir Aurangzeb  
ASJ-IX /JSC, Peshawar

ATTESTED

21/01/2023

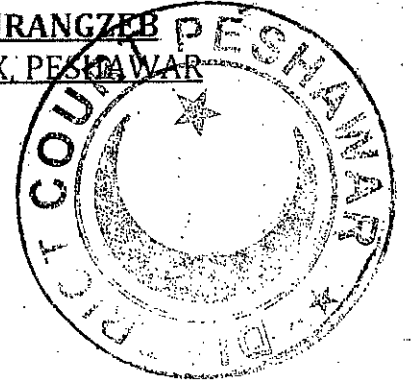
(Examined)

District Court Peshawar

(18)

**IN THE COURT OF MUHAMMAD TAHIR AURANGZEB  
ADDITIONAL DISTRICT & SESSIONS JUDGE-IX, PESHAWAR**

Sessions Case No: 60 of 2022  
Date of Institution: 19.10.2020  
Date of Decision: 16.01.2023



Place: Peshawar  
FIR No. 447  
Dated: 03.04.2020  
Under Section: 302/324/458/460/148/  
149/337-A(i)/337-F(ii, iii) PPC  
Police Station: Mathra, Peshawar

The State through Ishfaq Ahmad s/o Amin Gul r/o  
Nissata, Shindy kaly, Peshawar.

~~~~~Complainant

**VERSUS**

1. Sartaj Khan S/o Ajmal Khan aged about 41/43 years R/o Hassan abad.
2. Salman Shah S/o Jafar Shah aged about 29/30 years R/o Shinday Kaley Mathra.
3. Liaqat Ali Shah S/o Mastan Shah aged about 45 years R/o Shinday Kaley Mathra
4. Said Ghani Shah S/o Mastan Shah aged about 36/37 years R/o Shinday Kaley Mathra
5. Niaz Ali Shah S/o Said Ali Shah aged about 40/41 years R/o Shinday Kaley, Mathra

~~~~~(Accused facing trial)

**JUDGMENT:-**

1. Accused named above, faced criminal trial in case FIR No. 447, dated: 03.04.2020, U/S 302/324/458/460/148/149/337-A(i)/337-F(ii, iii) PPC registered at Police Station Mathra, Peshawar.

2. Brief facts of the case are that as per Murasila Ex:PA/1 recorded at 2:30 hours, complainant Ishfaq Ahmad

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District Court Peshawar



alongwith dead bodies of Abdul Majid aged about 26 years, Murad Ali aged about 50 years, Farman aged about 20 years and injured Nabi Gul aged about 60 years, Sahib Noor aged about 75 years, Inam Ullah aged about 25 years, Irfan aged about 24 years, Ihsan aged about 25 years. Mst. Razia aged about 50 years reported in LRH at 2330 hours that the complainant alongwith close relatives Abdul Majid, Farman, Murad Ali and Inam Ullah were present inside bathik of his house and Nabi Gul, Sahib Noor, Ihsan, Irfan, Mst. Razia Bibi were present at inner side of the house. In the meanwhile, accused Muzzamil Shah, Farid Ullah Shah, Razaqat, Liaqat Ali Shah, Said Ghani Shah sons of Mastan Shah, Sartaj, Niez Ali Shah, Sabir Shah and Sulaiman Shah armed with firearm weapons entered inside the house and started firing on them. The above-named sustained injuries and the complainant escaped unhurt. Injured with the help of counsel-villagers were shifted to LRH that Abdul Majid, Farman and Murad Ali died on the way to hospital. The motive was disclosed that an altercation and quarrel took place between deceased Farman and accused Muzzamil Shah, Razaqat, Farid Ullah Shah and Said Ghani Shah one day prior to the occurrence. The murasila was signed by Ishfaq Ahmad and converted into FIR Ex:PA.

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3. The scribe of murasila Shehzad ASI prepared injury sheet and inquest report of deceased as Ex:PW10/1 to Ex:PW10/6 and escorted them to the doctor. PW-8 has conducted post-mortem examination of the deceased Murad Ali through exhibits, Ex:PW8/1, Ex:PW8/2 and Ex:PM. He has noticed entry wound of 1x1 cm on the back chest followed by exit wound on the chest 3x2 cm. He noticed entry wound on arm 1x1 cm followed by exit wound of the same arm. He also observed entry wound on front of thigh 1x1 cm followed by exit wound in buttocks 3x2 cm. He conducted post-mortem of deceased at 12AM with observation of 2 to 5 hour time between death and post-mortem. He has also conducted post-mortem examination of deceased Farman through Ex:PW8/3, Ex:PW8/4 and Ex:PM/1 at 12:30AM. He observed firearm entry wound 1x1 cm on top of shoulder at right side. He notice exit wound on left side of neck 2x3 cm. He observed gutter wound 6x4 cm in right side pelvis. He opined 02-05 hours' time between death and post-mortem. He conducted post-mortem examination of deceased Abdul Majid at 01AM through Ex:PW8/5, Ex:PW8/6 and ExPM/2. He observed firearm entry wound on left side of outer chest 3x2 cm and firearm exit wound on left side of front chest 3x4 cm. He opined time between death and post-mortem as 02-05 hour. Later on, Nabi Gul

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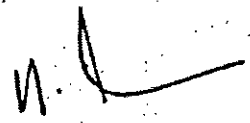
District Court Peshawar

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also died and he conducted his post-mortem examination vide Ex:PW8/7 and 8/8 at about 08:30AM. He noticed stitch wound on top of shoulder 1x1 cm, stitch wound on left front of abdomen 2x1cm, stitch wound on left outer thigh 1x1cm, stitch wound left front of abdomen 5x3cm. Group of 2 stitch wounds on left front of thigh. Lacerated wounds on hands with fracture of finger and also observed mid-line laparotomy wound 33cm long. He observed the time between death and post-mortem as 05-10 hours.

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4. The injured were examined by Dr.Ghulam Younas and Dr.Zeeshan PW-6 and PW-7. Dr. Ghulam Younas appeared as PW-6, he examined Inam Ullah with the report of greivous injury vide MLC Ex:PW6/1 and Ex:PW6/2. He examined Irfan Ullah injured vide Ex:PW6/3 and Ex:PW6/4. He has also examined Sahib Noor as Ex:PW6/5 and Ex:PW6/6. He observed firearm injuries on the bodies of victims. PW-7 was Dr.Zeeshan, he has examined Mst. Razia Bibi vide MLC Ex:PW7/1 and Ex:PW7/2, he examined Ihsan injured vide Ex:PW7/3 and 7/4. Similarly, he has initially examined Nabi Gul prior to his death vide MLC Ex:PW7/5 and Ex:PW7/6. All the injuries were reported as firearm injuries on different body parts of the victims.



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5. I.O went to the place of occurrence and he prepared site plan Ex:PW14/1 consist upon 05 sheets. He made spot recoveries during preparation of site plan Ex:P1 to Ex:P7 vide memo Ex:PW9/1. Ex:P1 to P5 was the blood stained earth through cotton which I. O collected from the spot. Ex:P6 and Ex:P7 were empties of kalashnikov and pistol as well as LED bulb. He also prepared recovery memo Ex:PW14/4 and Ex:PW14/5 vide which he sealed parcel Ex:P8 to P14 i.e. the blood stained garments of the deceased and injured. I. O has also recorded statements of injured. The scribe of murasila ASI Shehzad was also in-charge of PP Pajjegi and he arrested accused Sartaj vide card of arrest Ex:PW10/11 and 14/6 the DD. At that time due to recovery of pistol he has also recorded FIR Ex:PW14/7 u/s 15-AA. I.O has also collected blood stained garments of Inam Ullah and Shahib Noor Ex:P15 and Ex:P16 vide memo Ex:PW14/11. He applied for cell phone data of accused vide Ex:PW14/13. The CDR data of Sartaj Khan accused is Ex:PW14/14. I.O investigated the arrested accused Sartaj and during custody he made pointations vide Ex:PW9/2 as well as Ex:PW14/20. I.O also took into possession the pistol from muharrir which was recovered from accused Sartaj on his arrest as Ex:P17 vide memo Ex:PW14/21. I.O has produced the injured PWs before the learned JMIC and got recorded

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District Court Rawalpindi

their statement u/s 164 Cr.P.C. Accused except accused Sartaj were proceeded u/s 87/204 Cr.P.C vide Ex:PW14/30 and SW-1/1 to SW-1/12 as well as Ex:PW14/31 and Ex:PW14/32. I.O drafted applications for sending parcel of blood stained garments and earth as Ex:PW14/34, Ex:PW14/35, Ex:PW 14/36, Ex:PW14/37, Ex:PW14/38, Ex:PW14/39. He sent the empties to FSL in parcel No.6, 38 of 7.62 bore and 02 of 30 bore vide application Ex:PW14/40. Later on he sent parcel No.6 with parcel No.17 vide application Ex:PW14/41 i.e. pistol and empties. He placed on record copies of register No.21 and register No.19. He received the FSL report of pistol and empties which confirmed the use of 01 pistol and different 7.62 bore weapons, however, not fired from the recovered pistol. The FSL report of garments is Ex:PW14/51 and Ex:PW14/48 and Ex:PW14/49. The CDR data of other accused is Ex:PW14/50. I.O placed on file the pictures of crime scene and deceased as Ex:PW14/57.

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6. Later on, after 02 months of the occurrence, the same I.O carried further investigation went to Charsadda for arrest of accused Sabir Shah and Niaz Ali Shah. During that raid PO Sabir Shah sustained injuries and died, while Niaz Ali Shah was arrested vide Ex:PW14/59. During police custody Niaz Ali Shah made pointations vide pointation memo

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District Court Peshawar



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Ex:PW14/63. Liaqat Ali Shah, Sulaiman Shah, Ghani Shah produced their BBA order and the formal arrest is Ex:PW14/66 followed by the regular arrest Ex:PW14/67. They made pointations during their arrest which I.O has recorded as Ex:PW9/4 and the complete investigation alongwith Challan was submitted before the court of learned Additional Sessions Judge-VIII, Peshawar who complied section 265-C Cr.P.C and framed charge against accused facing trial under 10 heads on 25.11.2020 which the accused pleaded not guilty and claimed trial. The prosecution was allowed to produce evidence.

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7. PW-1 was Hazrat Ali ASI, he registered FIR from murasila as Ex:PA. PW/2 to PW/5 were identifiers of the dead bodies. PW-6, PW7 and PW-8 were the doctors and the brief of their statement is already mentioned above. PW-9 was the witness of the recoveries of spot vide memo Ex:PW9/1. He was also witness of pointation and house search vide memo Ex:PW9/2, Ex:PW9/3 and Ex:PW9/4. PW-10 was Shehzad ASI scribe of murasila EX:PA/1 in quest reports Ex:PW10/1 to Ex:PW10/3 as well as Ex:PW10/10. He also drafted injury sheets Ex:PW10/4 to 10/9. He also arrested accused Sartaj vide card of arrest Ex:PW10/11. PW-11 was complainant, PW-12 was injured Nabi Gul and PW-13 was injured Irfan Ullah. They all supported the prosecution case.

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District Court Peshawar



in-line with murasila and witness of site plan. PW-14 was Hidayat Khan SI. He conducted investigation and the detailed script is already reflected above. PW-15 was witness of recovery memo. Thereafter the prosecution closed the evidence.

8. The statement of all the accused was recorded separately u/s 342 Cr.P.C. All the accused claimed their innocence in their statement of accused and not opted to produce defence or give statement on oath. However, accused Sartaj in answer to question No.15 supported his defence plea which was taken by him during the cross-examination. Thereafter, arguments heard.

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9. The learned PP was assisted by Mr. Hussain Ali Advocate argued that the accused facing trial is directly charged in the FIR; that all PWs remained consistent and coherent in their deposition made regarding the occurrence; that no major or minor contradiction could be extracted from their mouths. It was finally argued that prosecution has successfully proved its case against accused facing trial beyond shadow of doubt and prayed for conviction of the accused facing trial.

10. On the contrary the learned counsel for the accused Mr. Fayaz Khan Chamkani argued that accused facing trial are innocent and has falsely been charged in the instant case; that all the PWs are highly interested, procured witnesses

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District Court Peshawar



and they never remained consistent and coherent in their deposition against the accused and their statements are suffering from major discrepancies and contradictions. It is finally argued that prosecution has failed to prove charge against accused facing trial beyond any shadow of doubt and prayed for acquittal of the accused. He further added that the arrest of accused Sartaj was planted one and the original mode and manner of the arrest was concealed by the police just to plant the case against him.

11. Perusal of record shows that 04 persons were murdered and 05 persons sustained firearm injuries inside their house. The accused facing trial alongwith dead accused and absconding co-accused were directly charged for commission of offence. It was the case of the prosecution that the complainant alongwith Abdul Majid, Farman, Murad Ali and Inam Ullah were sitting inside *baithak* while Nabi Gul Sahib Noor, Ihsan, Irfan and Mst. Razia were present inside house that accused Muzzamil Shah, Farid Ullah, Razaq Liaqat Ali Shah, Said Ghani Shah, Sartaj, Niaz Ali Shah Sabir Shah and Sulaiman Shah armed with deadly weapons came inside the house and started firing due to which Abdul Majid, Murad Ali and Farman died on the way to hospital and Nabi Gul died in the same night, while others of the complainant sustained firearm injuries. The motive

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District Court Peshawar

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disclosed as one day prior to the occurrence; a quarrel took place between deceased Farman and accused Muzzamil, Razaqat, Farid and Said Ghani. The ocular account in the instant case was presented before the court by PW-11, PW-12 and PW-13 i.e. complainant Ishfaq, injured Inam Ullah and Irfan Ullah. They have supported the ocular account of the occurrence and charged all the accused with role at par. The prosecution argued that they have proved the case through presentation of consistent, unbiased and coherent statement of eye-witnesses. They also relied on the site plan and spot recoveries as well as they obtained additional support of the circumstances from CDR reports of the accused. They prayed that the accused be convicted with maximum punishment.

12. The learned counsel for the accused raised several points during his arguments and submitted that there is consultation and deliberation prior to registration of case resulted in false accusation of the accused. He argued that the mode and manner of the occurrence is not proved and not narrated truly and resulted in exaggerated charge in number of accused. He argued that there was no support of physical circumstances to the case of prosecution witnesses. He further argued about the distinguished facts of accused Sartaj. This court evaluated the facts of the case and the

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pints referred by the learned counsel for accused are the points for the judicial determination. So far as the first point is concerned, the learned counsel for the accused submitted that there is consultation and deliberation as well preliminary investigation prior to registration of this case. This court has gone through the record and noticed that the occurrence was reported to be committed at 2130 hour and the report was made at 2330 hour followed by the FIR recorded at 1210 hour mid-night. Obviously, 02 hours were consumed in reporting the matter. Timing of FIR and time of occurrence has been objected by the defense by making mechanical calculation but things should be adjudged in their natural course. The complainant was having a dead bodies of his close relatives in an unexpected and un anticipated attack so natural human response to such a tragedy would be that he would have been shocked, he would have become motion less, unable to take a timely decision unless and until some would have come to console him, to give him courage and to help him in regaining his energies. So consumption of some time on spot, in arranging of vehicles as well as in shifting of dead bodies to hospital would have certainly consumed some time. In the instant case there are 04 dead bodies along with 05 bullets ridden injured. The occurrence was committed inside the house in *baithak* of the house, thereafter inner side of the house through indiscriminate firing as from the report, the transportation of

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District Court, Bikaner

injured as well as deceased to the hospital also takes time. It is not humanly possible to carry all injured and deceased to the hospital in one go. The hospital record also reveals that the arrival of dead bodies and injured started from 2145 hour till 2320 hour and the same was stance of injured eye witness that the victims were shifted to hospital as per their condition in sequence. In such like situation, it was the duty of complainant who was not injured to secure the human life first and gather the facts regarding the injured and deceased till arrival of last person, then to report the matter. So, the element of consuming the time in between occurrence and the report was natural. In such type of eventualities, when the life of 09 persons from a family is a stake then consumption of time in gaining the senses and shifting the injured to hospital is the foremost responsibility and priority of other family members and the report is always recorded after providing the injured in the safe hands of doctors. This court hold that the consumption of time in between the report and injuries was not fatal for the purpose of point that the case was investigated and the accused were planted.

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13. So far as the second point is concerned, it was arguments of learned counsel for accused that the mode and manner of occurrence was not properly narrated by the complainant and numbers of accused were exaggerated. He placed

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reliance on 2018 MLD 973 titled as "Sardar VS The State", 2021 YLR Note 79 titled as "Bakht Rawan VS The State" and 2018 YLR Note 59 titled as "Alam Zar Khan VS The State". The witnesses in the instant case who presented the ocular account are PW-11 to PW-13. Two witnesses Irfan and Inam Ullah are also injured in the occurrence. The presence of injured eye witness on the crime scene in ordinary course could not be doubted and it is the accused who prove it otherwise. The presence of injured eye witnesses was never challenged by the accused side and the stamp of firearm injuries on their bodies also suggest their presence. The only aspect in evaluation of their stance is the mode and manner of the occurrence. It is the basic principle of appreciation of evidence that by no stretch of imagination, the ocular account can be discarded through corroborative evidence except where the consultation deliberation is proved, the witness is interested and dishonest and his conduct is not natural. In the instant case the accused side mainly focused on un-natural conduct of the PWs and non-disclosure of source of light in the murasila. The learned counsel for the accused also targeted the number of accused and aspect of exaggeration. PW-12 was Inam Ullah, he narrated the ocular account in mode and manner of murasila in his examination in chief. He has not

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 District Court Peshawar

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made any addition or deletion in the initial version. He was cross-examined on the issue of his medical treatment including surgery on the eventful night after the occurrence and he affirmed it. He was cross-examined with direct question about the place of his sustaining injuries and he affirmed it in *baithak*. The learned counsel strongly presses the point that the witness stated about the *Isha Namaz* in masjid and the complainant stated it in the *baithak*. This court feels that every contradiction is not material until and unless it touches the believability of the case. The said statement was not contradiction but minor discrepancy and not material. He has also referred inconsistency in the statement of complainant on aspect that the complainant stated that the *charpies and mats* were not in the *baithak* and this witness stated that these were available. This fact was not material aspect of the case as the sustaining of injuries was not doubtful aspect of the case if there is any laxity on the part of I.O and the complainant tried to cover it, it is never fatal for his case if the same do not touch the material mode and manner of the occurrence. The witness was also cross-examined on the standing position/sequence of all the accused and he replied that, he do not recognise the sequence of standing of the accused due to fear of that moment of firing. There is no other material cross-

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examination on the said injured eye witness regarding mode and manner of the occurrence. The spot was not challenged in cross examination through questions or suggestions. The spot was inside the house at 2130 hour and it is natural that when such number of persons are sitting in a residential house then there must be a source of light. Furthermore, the first information report is not a complete encyclopaedia of occurrence and it only set the law in motion. The I.O has collected bulb from the place of occurrence. The accused side challenged the non-availability of schedule of load-shedding and the complainant also claimed the availability of generator, however, to reject this point of generator the accused side placed on record schedule of load-shedding and as per that schedule the light was available at that time. Be that as it may, this court fully believe that in residential house when number of persons sit jointly then there shall be source of light there which is also established in natural course. The witness remained consistent to his initial version on material aspects.

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14.PW-13 was Irfan Ullah, he was also injured eye witness and the stamp of injuries on this body was suggesting his presence on the crime scene. He narrated the ocular account in his examination in chief. He explained the facts during cross examination in line of the site plan about the

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compound that is place of occurrence. In the said compound, within 01 boundary wall there are 03 houses of complainant families i.e. cousins interse. He was sitting in the courtyard with his mother on cot. He was cross examined on aspect that the firing was made on the *baithak* first whether they have moved towards the *baithak* and he replied that it happened in moments with no chance of their movement. He was again questioned about the mode of firing and he submitted that it was not rapid firing but one by one firing. He was not in a position to calculate the number of fires. It was the case of prosecution that first episode of firing was in the *baithak* and the second was in the courtyard. This fact was not cross examined and remained established that the firing took place at 02 spots, one after the other. The reasons of presence of such a huge number of accused was the question that how the accused cousins interse gathered in the event. The same was addressed during cross examination by putting the suggestion that there was *Jirga* due to previous day altercation between Farman deceased and accused side which suggest that the gathering of the accused at one place was justified. This court has not observed any material contradiction in the statement of PW Irfan-Ullah. He was injured eye witness and the presence was established, the place was established and the mode of firing was

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established. The source of light was provided by the I.O which in common course of events is always available in a residential house.

15. The complainant of the case escaped unhurt and the accused side challenged his escape by suggesting arguments that he was not present on the crime scene. It was the days of Covid-19. The time of occurrence was 2130 hours. The place of job etc of the complainant was asserted in Peshawar and was not proved by the accused side otherwise. In natural course the availability of a person inside a house alongwith other family members at 2130 hours could not be doubted. The place of complainant in the site plan was specifically mentioned where he is placed at side from the exposure of door. In such situation when 09 person sustained injuries out of whom 04 died, then this argument is not justified why the one person is kept unhurt. At the same time in firing 09 were hit and the escape of one person in natural time of his presence in his house is not unnatural. The complainant was cross examined and beside the cross examination of accused Sartaj, this court has not observed any material contradiction in that cross examination. The aspect of accused Sartaj shall be discussed alongwith his plea in concluding para of this judgment. The cross examination of the complainant suggest that there were no rival terms between the complainant party

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and the accused party prior to motive occurrence which happened one day prior to this occurrence. He was suggested for firing by unknown accused which he denied. He was confronted with the facts of timing of report and he answered in a rational way that he was busy in shifting the dead body and injured so the time was consumed. It was entire cross examination regarding mode and manner that the length of the *baithak* and visibility of the accused was tried to be shattered, however, this court has not found any material contradiction or unnatural behaviour which could effect the believability. So for what has been discussed above the prosecution has successfully proved the presence of all the eyewitnesses on spot and also that they have faced the test of lengthy cross examination very successfully and the defense has failed to create any dent in their statements despite hectic efforts. PWs in a very natural, straight forwards and coherent manner have given the true picture of the present unfortunate tragedy. They remained stuck to their initial version contained in FIR as well as 161 Cr.P.C. statements. Their statements carries intrinsic worth and qualify the standard which is required for recording conviction in a criminal case.

16. Another point raised by defense was non production of all the injured. It has been submitted by the defense counsel that the other injured have not been examined by the prosecution. Law on this point is very much clear and is that nonappearance of all the

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injured witnesses will be of no harm for prosecution. Reliance is placed on PLD 2004 Pesh 142. NLR, 2001 S.C 5. Furthermore it is the quality and not the quantity which inspires the confidence.

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18. So far as the third point is concerned, that was regarding physical circumstances of the case, in physical circumstances, the site plan is a significant document. Site plan normally consist of two portions, one prepared on pointation of PWs which is synonymous to 161 Cr.P.C. statement while the other shown by the I.O on his own observation 1999 SCMR 2444. The later part i.e. the observation of I.O carries much importance and is always given much weight by the courts. I.O has mentioned the main door of the house as bullet ridden. He has reflected the door of *baithak* from both the sides i.e. right and left as bullet ridden. He has shown number of bullet marks in the line of fire on the back of deceased. He has shown the complainant was not in the line of fire at point No.1. He has mentioned the second spot i.e. courtyard of the house where in the line of fire, at back of injured and deceased Nabi Gul, he has shown number of bullet marks as point D to I. He has also collected bulb from the house. This court has already held that when the ocular account is consistent then there is no need of physical circumstances. however, the same was also supporting the case of prosecution. The collection of blood stained earth and blood

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stained garments was also not challenged through relevant cross examination. The I.O has collected 02 empty of 30 bore pistol and 38 empties of 7.62 bore which suggest in any case the number of accused are not less than three and can be more than three. All these circumstances were supporting the case of prosecution. Furthermore, the medical evidence being supportive evidence fully supported the prosecution case.

19. So far as fourth point is concerned, i.e. about accused Sartaj. Accused Sartaj has taken specific stance from the very initial stage that he was not present on the crime scene. The learned counsel for the complainant produced 2008 SCMR 1049 titled as "Sahib Khan VS The State". In that case the august court held that the accused took plea of his presence at duty place and failed to establish the same, however, in the instant case the accused Sartaj took plea that he was inside his house and was arrested. The facts are distinguished as the place of availability at official place and non-establishing of the same provides an inference, however, the place of availability in house is something different. There is a concept that the ocular account is not divisible when the accused are charged for role at par. Either the court has to believe it or to disbelieve it. This concept of divisibility is justified beyond any doubt, however, the

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District Court

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principle of appreciation of evidence is that first the court will evaluate the ocular account of the case. The prosecution if have proved the case then the court will consider the statement of accused for extending benefit to the accused while evaluating both prosecution evidence and the plea in the juxta position. This standard of evaluation never suggests that the prosecution witness is false, but only suggest that the said accused obtained the benefit of doubt. This court is well aware that there is a difference in between false witness and the witness being not relied and the benefit of doubt after proof of case by prosecution. These are two different witnesses and not relied witness is never a false witness furthermore benefit of doubt after proof of case in prosecution evidence is addressed by august court in authoritative and circulated judgement. Reliance is placed on judgment of august Supreme Court of Pakistan delivered in "Ashiq Hussain alias Muhammad Ashraf Vs The State" reported in **PLD 1994 SC 879** wherein the august Court has settled land mark guidelines for appreciation of evidence in criminal cases and also made it directory guidelines for all the courts for appreciation of evidence.

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District Court Feshawar

*"For the guidance of all the Courts in the country we propose to lay down rules/principles for the appreciation of evidence in criminal cases of one version or of two versions. The proper and the legal way of dealing with a criminal case is that*

the Court should first discuss the prosecution case/evidence in order to come to an independent finding with regard to the reliability of the prosecution witnesses, particularly the eye-witnesses and the probability of the story told by them, and then examine the statement of the accused under section 342, CrPC, statement under section 340(2), CrPC and the defence evidence. If the Court disbelieves/rejects/excludes from consideration the prosecution evidence, then the Court must accept the statement of the accused as a whole without scrutiny. If the statement under section 342 CrPC is exculpatory, then he must be acquitted. If the statement under section 342, CrPC believed as a whole, constitutes some offence punishable under the Code/law, then the accused should be convicted for that offence only. In case of counter versions, if the Court believes prosecution evidence and is not prepared to exclude the same from consideration, it will not straightaway convict the accused but will review the entire evidence including the circumstances appearing the case at close before reaching at a conclusion regarding the truth or falsity of the defence plea/version. All the factors favouring belief in the accusation must be placed in juxtaposition to the corresponding factors favouring the plea in defence and the total effect should be estimated in relation to the questions, viz., is the plea/version raised by the accused satisfactorily established by the evidence and circumstances appearing in the case? If the answer be in the affirmative, then the Court must accept the plea of the accused and act accordingly. If the answer to the question be in the negative, then the Court will not reject the defence plea as being false but will go a step further to find out whether or not there is yet a reasonable possibility of defence plea/version, being true. If the Court finds that although the accused has failed to establish his

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22 FEB 2011

(Examined)  
District Court, Peshawar

*[Signature]*

*plea/version to the satisfaction of the Court but his plea might reasonably be true, even then the Court must accept his plea and acquit or convict him accordingly."*

20. In the instant case the complainant party was resident of village Shinday Kaley and all the accused except accused Sartaj were resident of village Shinday Kaley. Accused Sartaj was resident of village Hassan Abad and he was serving in police as ASI. He took a specific plea during cross examination and during arguments as well as in statement of accused that he was sleeping in Hassan Abad inside his house and the police came and arrested him in the night of occurrence. He claimed that he was not present at the crime scene at the time of occurrence and there must be a misunderstanding in his identification. The prosecution placed on record cell phone data of all the accused. This data was not obtained through an admissible source; however, it was the stance of prosecution that it is the data of the accused, so the prosecution cannot deny this data. The data of other accused is exhibited as Ex:PW14/50 and the data of accused Sartaj is exhibited as Ex:PW14/14. The time of occurrence in this case is 2130 hours. There was a telephonic contact of accused Sartaj Khan in the said data with accused Muzzamil and Farid Ullah on 2115 hours for 30 seconds, on 2124 hours for 23 seconds and on 2135 hours

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for 27 seconds. In the said data during all the three calls accused Sartaj was connected with the booster of village Alizai, Gulabad, Peshawar. The data of accused Sulaiman shows him connected with booster of village Garhi Khan at 2043 hours and at 2132 hours. Data of accused Niaz Ali Shah shows him at 2126 hours and 2149 hours, connected with village Garhi Khan Gul Khazada Mill Peshawar. The data of accused Syed Ghani Shah shows him connected with village Garhi Khan Gul, Khazada Mill Peshawar from 2130 hours to 2153 hours. Data of Syed Liaqat Ali Shah is available till 1854 hours, however, in entire data he was mostly connected with village Garhi Khan Gul, Khazada Mill Peshawar. Accused Farid Ullah Shah data regarding the relevant time is not available. However, he was mostly connected at that time with both the boosters. Data of accused Rafaqat Ali Shah shows that he was throughout connected with village Garhi Khan Gul Khazada Mill Peshawar on 02.04.2020. The data of accused Muzzamil Shah is not available pertaining to time of occurrence. In the said data there are two facts, one fact is that during the time of occurrence accused Muzzamil and Farid were in telephonic contact with accused Sartaj. They all pertain to one cellular company SIM but the booster of connection of accused Sartaj is different at that time. The prosecution was

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22 MAR 2023

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specifically questioned about the fact if accused Sartaj was available on spot then why he was contacted on telephone consistently at the time of occurrence and after the occurrence. The prosecution claimed that this consistent connection shows his involvement, however, the matter in this case was not regarding his behind the scene involvement but regarding his physical presence. The second aspect was that the accused Sartaj was having no enmity or altercation with the complainant party on or prior to occurrence and the motive was specifically against the residents of village Shinday Kaley. The third aspect was that accused Sartaj was arrested by PW-10 i.e. Shehzad ASI. It was his case that he arrested accused on 03.04.2020 at 1650 hours and the accused claimed that he was sleeping inside his house that he alongwith his brother were arrested by the then DSP and ASI Shehzad. The PW Shehzad was cross examined and he was specifically questioned about his arrival and departure of that night. He replied that he remained on raid of the houses till 04:00AM on that night in supervision of SHO. He admitted that he arrested relatives of accused and accused. He stated later on in self-statement that not the accused, only relatives. In first two days there is only arrest of accused Sartaj, the remaining accused are arrested after 02 months. The witness also admitted that the house of accused Sartaj

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**ATTESTED**  
 22 MAR 2020  
 (Examiner)  
 District Court Peshawar





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was also raided. He stated that the door was opened by his father Ajmal. The accused only made addition in arguments and suggestion that in that raid he was arrested. The prosecution presented CW1/1, the arrival of ASI Sartaj at 1750 hours where he has shown arrest of accused at 1750 hours from the graveyard. This court has considered all the aspects from the accused side in support of his defence argument and plea. The arrest of accused Sartaj from a graveyard specifically when he is also ASI was not appealable in the circumstances when his house was also raided in the night. If his arrest was made at the night time then it is also not appealable from accused of murder that after commission of four murders and five injured he was sleeping at his house. The cell phone data was also there with all the complications in it and the telephonic connection of the accused with the other accused at the time of occurrence is also there. This court has evaluated the prosecution evidence with standards of appreciations where there was no error of identification and presentation of mode and manner. So, the said evidence is accepted, however, to rule out a minor chance of false conviction under the true Islamic principles the accused Sartaj is also declared entitled for the benefit of doubt created through his defence plea as well as cross examination of prosecution own witnesses.


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(44)

21. This court has evaluated the entire prosecution case where the prosecution witnesses remained consistent, unbiased, and coherent regarding mode and manner of the occurrence. They have also obtained support of physical circumstances to the ocular account and prove the ocular account beyond the shadow of doubt. The accused Sartaj have taken a specific plea of his absence and all the hypothetical conclusion of non-availability of motive, trend of the society to charge the influential one, mobile data record, mode and manner of arrest, his defence plea is accepted, however, just for benefit of doubt and without considering damaging factor to the prosecution case. **Accused Sartaj is acquitted from the charges levelled against him. He is in custody, be released forthwith if not required to be detained in any other case.** The prosecution has proved their case beyond shadow of doubt against accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah as they are declared guilty.

SP

22. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are hereby convicted u/s 302/149 PPC and the normal penalty of death is not awarded to them due mitigating circumstances that number of accused, the non-specification of roles and the general role and the injuries of the victims in number without

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 (Examiner)

District Court Peshawar



specification of the roles, the accused are sentenced to pass life imprisonment on four counts for murder of deceased Farman, Abdul Majid, Nabi Gul and Murad Ali. They are also liable to pay fine equally to the tune of Rs.400,000/- (Rupees Four Lacs) for each deceased and within the meaning of section 544-A Cr.P.C the same is granted to legal heirs of deceased.

23. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are also convicted u/s 324/149 PPC for making firing effectively on the injured Inam Ullah, Irfan Ullah, Sahib Noor, Mst. Razia Bibi, and Ihsan Ullah as well as complainant and sentenced to 07 years rigorous imprisonment and also liable to pay fine of Rs.50,000/- (Fifty Thousand) in default whereof they will further pass sentence of 06 months simple imprisonment.

24. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted u/s 337-D/337-F(ii) PPC for causing injuries to injured Inam Ullah and sentenced to 07 years imprisonment as Tazir. They are also liable to pay 1/3<sup>rd</sup> of Diyat amount to the victim.

25. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted u/s 337-F(ii) PPC for causing injuries to injured Ihsan Ullah and sentenced for 03 years imprisonment as Tazir. They are also liable to pay

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District Court Feshawar



Daman amount to the victim amounting **Rs.100,000/-**  
**(Rupees One Lac).**

26. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are also convicted u/s 337-A(i) and 337-F(i) PPC for injuries of Irfan Ullah and sentenced to pass 01 year imprisonment as Tazir. They are also liable to pay Daman amount **Rs.50,000/- (Rupees Fifty Thousand)** to victim.

27. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are also convicted u/s 337-F(v) PPC for causing injuries to Mst. Razia and sentenced for 04 year rigorous imprisonment. They are also liable to pay daman amounting **Rs.300,000/- (Rupees Three Lacs)** to the victim.

28. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted for causing injuries to Sahib Noor u/s 337-F(i) PPC and sentenced for rigorous imprisonment to 01 years as Tazir. They are also liable to pay Daman amounting **Rs.50,000/- (Rupees Fifty Thousand)** to the victim.

29. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted u/s 449/149 PPC and sentenced to 10 years rigours imprisonment and fine of **Rs.50,000/- (Rupees Fifty Thousand)** in default whereof they will pass 01 month simple imprisonment.

**ATTESTED**

*[Signature]*

**(Examiner)**

**District Court Peshawar**

*[Signature]*

30. The accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah are convicted u/s 427/149 PPC and sentenced to 01 year rigorous imprisonment and fine of Rs.100,000/- (Rupees One Lac).


31. Accused Salman Shah, Liaqat Ali Shah, Said Ghani Shah and Niaz Ali Shah will remain in custody till the payment of Daman and Arsh.

32. Benefit of section 382-B Cr.P.C is extended to accused and all the punishments shall run concurrent.

33. A copy of this judgment be given to the accused free of cost within the meaning of Section 371 Cr.P.C while a copy be transmitted to the learned DPP, Peshawar within the meaning of Section 373 Cr.P.C.

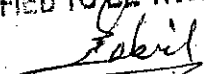
34. Record be returned while file of this court be consigned to the record room after necessary completion and compilation.

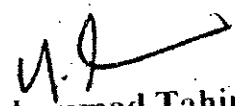
Announced  
16.01.2023

  
(Muhammad Tahir Aurangzeb)  
Additional Sessions Judge-IX  
Peshawar

CERTIFICATE

It is hereby certified that this judgment consists of **Thirty (30)** pages, each page read corrected and signed by me.

CERTIFIED TO BE TRUE COPY  
  
(Examiner)  
Copying Agency District Court  
Peshawar.

  
(Muhammad Tahir Aurangzeb)  
Additional Sessions Judge-IX  
Peshawar

Ambar (F)

48

انڈیکس



ایڈوائس جناب محمد صاحب A.D&SI-XIII، پشاور

| نمبر مقدمہ | رجوعہ   | اصل رجوعہ | فیصلہ   | قطععات |
|------------|---------|-----------|---------|--------|
| 2/SC       | 13-1-21 |           | 28-9-21 | (59)   |

سرکار بنام سر شاہج خان

| نمبر شمار | قطعہ نمبر | تعداد قطععات | نوعیت کاغذات                                 |
|-----------|-----------|--------------|--|
|           | 1/7       |              | انڈیکس بڑا                                   |
|           | 8/10      |              | آڈیو کاسٹ بیان                               |
|           | 11/57     |              | مشاورہ برائے نام رضا فیضی صاحب، کابل درج ذیل |
|           |           |              | انڈیکس اصل موجود                             |
|           | 58/59     |              | دادت و فرضیاری پوروز                         |
|           |           |              | قطععات (59) داں دفتر                         |

Checked & Found Correct

ASJ-XIII, Peshawar

ATTEST

09 OCT 2021

(Examiner)  
District Court Pesh

مقدمہ عدالت  
 قحانہ  
 صزانہ

چالان فارم زیر دفعہ 173 ض ر ف

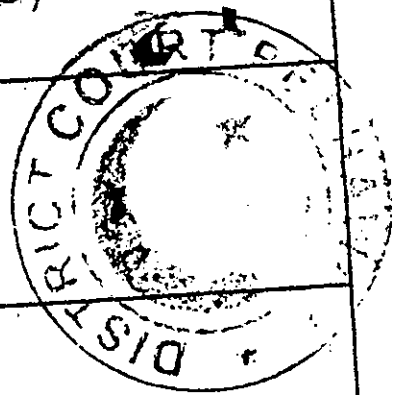
ضلع پشاور

District Court Peshawar

18

دفعہ 5-1-2020 ج 324 P.F.324

|   |                                   |                                      |
|---|-----------------------------------|--------------------------------------|
| 1 | نام و پتہ متبغیغ                  | عالم خان ولد محمد اقبال بکنہ صن آباد |
| 2 | لزمان عدم گرفتار<br>بشمول مفروضان |                                      |
| 3 | لزمان گرفتار شدہ                  | سرتاج خان ولد اہل خان بکنہ صن آباد   |
|   | زیر است                           | بظاہر                                |
| 4 | تفصیل مال مقدمہ                   | مطابق غدران                          |



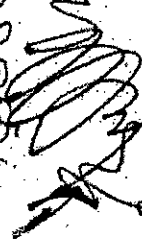
نام و پتہ گواہان

- 1 عالم خان ولد محمد اقبال بکنہ صن آباد
- 2 سلمان ورنی
- 3 رحیم آثمہ LRAH/AS5 نشانہ
- 4 ڈاکٹر عسلا اختر خانہ
- 5 حمید خان AS5 قحانہ صزانہ
- 6 ارشاد عالم 898
- 7 ابراہیم 3807
- 8 صدرا صبن ولد محمد اقبال بکنہ صن آباد
- 9 جمیا نگر خانہ AS5 قحانہ صزانہ
- 10 اعیاز اللہ خان AS5

جناب عالی!

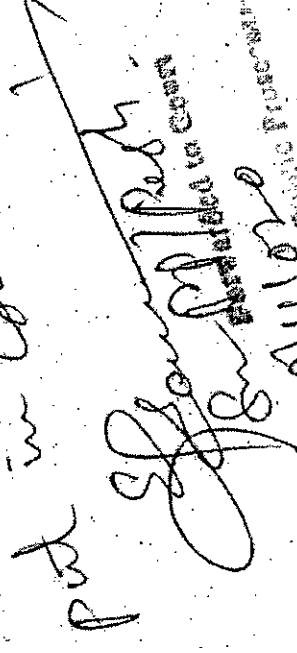
مختصر حالات مقدمہ  
 مختصر حالات مقدمہ عدالت مقدمہ عدالت سے کہ مقدمہ صزانہ صبر  
 خانہ AS5 کو درست بیوش و ضواہن میں اپنی عبور صبت کی رپورٹ  
 برخلاف عدالت مقدمہ صزانہ نمبر 3 درجہ کر کے آخری عبور صبر صبر اسل  
 ہم حمید خان AS5 نے مقدمہ ہذا درجہ رضیہ کر کے لغتہ مقدمہ  
 جمیا نگر خانہ AS5 نے کی جانے بدوران لغتہ لغتہ مقدمہ بلا سیکلر  
 مرتب کر کے لغتہ متعل مقدمہ کی، اسی طرح جائے وقوعہ اڑیہ کے نمبر 2  
 سے صدرت صبی فون آڈو ایٹھا جی جا کر بہر وقت فرد قبضہ پولیس میں کر  
 لے اسی طرح پارچیاں فون آڈو آڈان نمبر 2 نمونے فرد قبضہ پولیس میں  
 کر کے صبی فون آڈو آڈو پارچیاں فون آڈو نمبر نمبر 2 AS5 ہیو جی  
 کرد لے AS5 خصوصاً نمونہ متعل مقدمہ کی، اسی طرح جائے  
 عدالت سیشن سے عبوری صہانت حاصل کر کے سابقہ ہی اصران بالا کو  
 اپنی بگناہی کے بابت مختہ بری در خواست دیکر سابقہ ہی اپنی بگناہی  
 کے بابت ایکساں پیشی کر کے صہفون نے اپنے اپنے بیانات بذریعہ  
 مشاہد سیشن کر کے جو کہ لغتہ متعل مقدمہ کی، اسی طرح ان بالکلیں  
 دفعہ سیشن کر کے جو کہ لغتہ متعل مقدمہ کی، اسی طرح ان بالکلیں

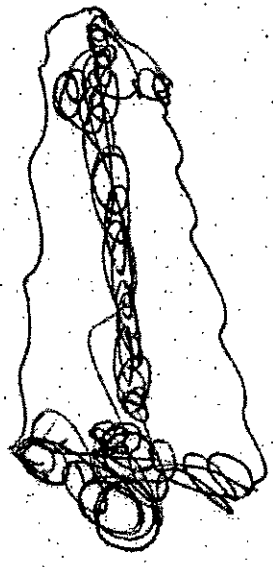
کے علاوہ علاقہ میں کوئی بھی لا صلح شخص ملزم کی ہے تباہی کے بارے میں کسی قسم کا بیانیہ دینے کیلئے تیار نہیں ہوا چونکہ مقدمہ صدر اور رولز میں ملزم سے اور ملزم سے تاح جو کہ حکم پولیس میں سرکاری ملازم سے اور اپنی ہے تباہی کے بابت افسران بالا کو قہریری درخواست کی ہے اور جن کسان کو اپنی ہے تباہی میں بیانات دینے کیلئے پیش کیے ہیں ان کسان پر مذکورہ طریقہ کو اختیار نہیں ہے۔ اسی طرح ملزم بالا کی عبوری مہمانت عدالت سٹیٹ سے خارجہ نیور ملزم بالا کو مقدمہ صدر میں صوبہ ضابطہ گرفتار کر کے حلالان عدالت کر کے جو حکم عدالت سٹیٹ فیمل میں مقید تھا جو جیل سے نکل کر عدالت مہمانت ریگنوجیکل کورٹ آرڈر مہمانت نامہ لف مثل مقدمہ سے مقدمہ میں گواہان اور ملزم کا بیانیہ لیا گیا ہے۔ مقدمہ میں دیگر تکیوں و قیامی قسم سے مقدمہ میں اہل علاقہ ملزم صدر سے ضابطہ گرفتاری بہ اعتبار سندھارت گواہان صدر سے ضابطہ گرفتاری حلالان ملزم ریگنوجیکل ہے۔ مہمانت ضابطہ گرفتاری

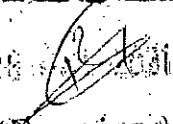
  
H.O. D. S. K-2

21-3-2020

put in court

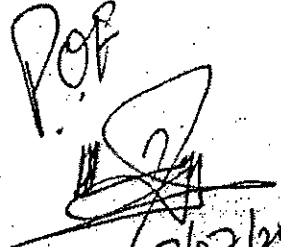
  
S. Ghous Ali Rishi  
District Public Prosecutor  
District Peshawar  
10/11/20



**ATTESTED**  
  
(Examiner)  
District Court Peshawar




Before the learned Additional  
Session Judge, Peshawar.

State vs Sarraj. <sup>POF</sup>  
  
17/07/2021

Subject: Requisition of case file  
- for compromise and  
- by parties (complainant  
and accused).

i. That this case is fixed on  
28<sup>9</sup>/<sub>2021</sub> before this Honorable  
Court.

ATTESTED  
  
(Examined)  
District Court Peshawar

ii. That the parties are reached  
to compromise by the  
interference of the elder  
of the locality.

iii. a. - The complainant  
has pardoned the accused  
in the name of Almighty  
Allah.

It is therefore requesting before  
this Honorable Court to accept  
this Application.

17/7  
7  
Tulazg  
ad. Shyul et

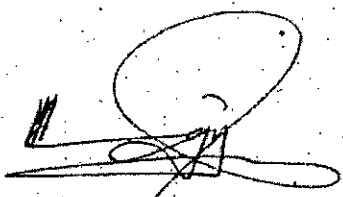
**Statement of Alam Khan S/O Muhammad Iqbal R/O Hussain Abad,  
Peshawar.**

Stated on oath that I am injured/complainant in case FIR No.18 dated 05.01.2020 U/S 324 PPC registered at PS Khazana, Peshawar wherein I charged the present accused facing trial namely Sartaj for the commission of offence. I was injured in the instant case and now through the intervention of elders of locality I have patched up the matter with the accused facing trial named above and have pardoned him in the name of Allah Almighty, therefore, I have got no objection if this Honorable Court acquit the accused facing trial named above in the instant case, on the basis of compromise. In this respect compromise deed is Ex.PA while copy of my CNIC is Ex.PB.

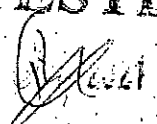
RO&AC  
17/07/2021



**Complainant** JK/LG  
Alam Khan S/O Muhammad Iqbal  
CNIC No.17301-7852312-7

  
**Muhammad Sajid,  
ASJ-XIII, Peshawar**

2

**ATTESTED**  
  
(Examiner)  
**District Court Peshawar**

FORM "A"

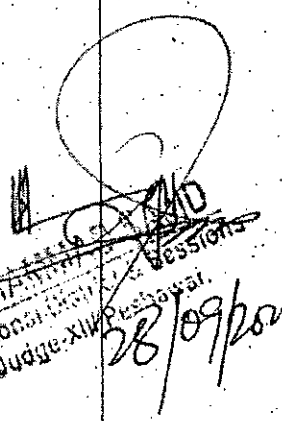
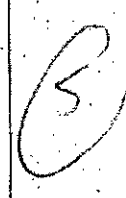
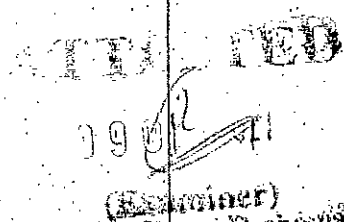
FORM OF ORDER SHEET

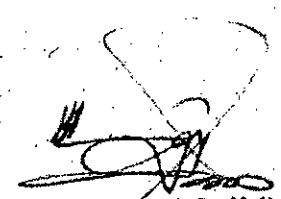
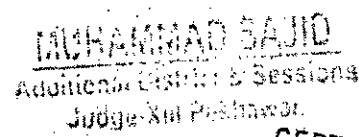
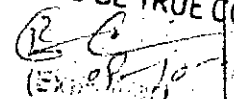
IN THE COURT OF MUHAMMAD SAJID, ASJ-XIII,

PESHAWAR

Sessions Case #407/SC

The State --- Vs --- Usman etc.

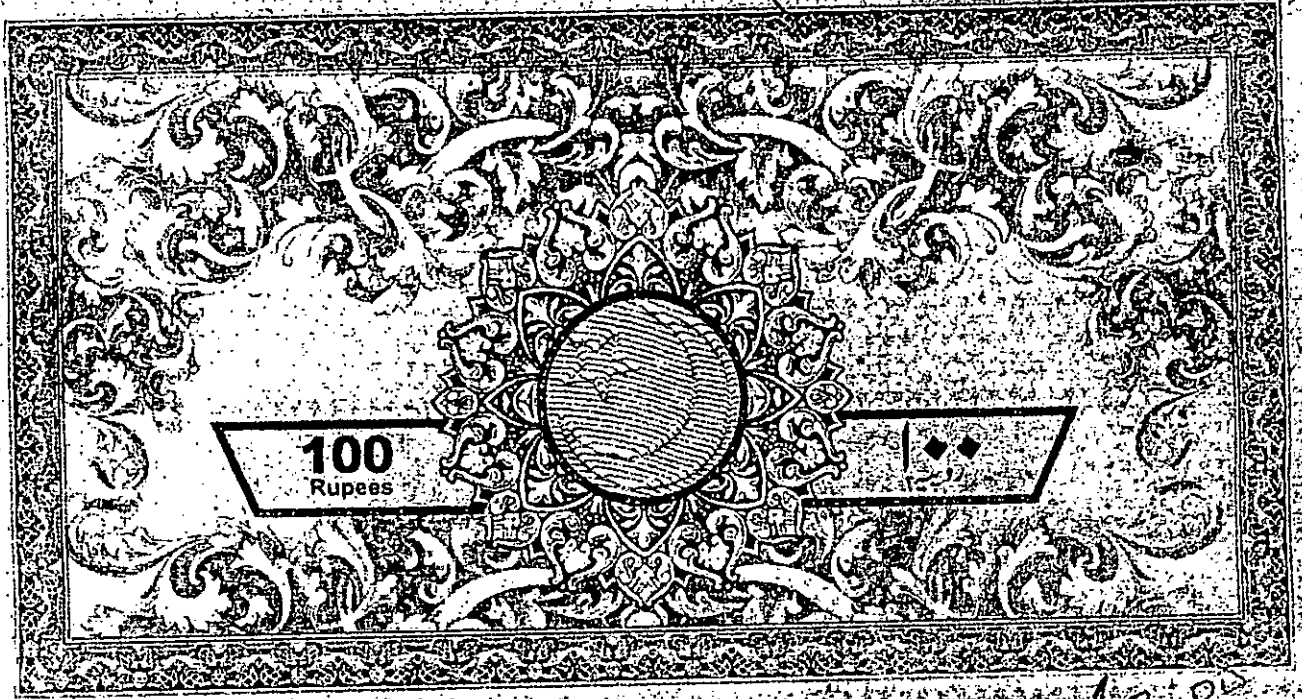
| Serial No. of Order or Proceeding  | Date of Order or Proceeding | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary  |
|--|-----------------------------|--|
| 1  | 2                           | 3  |
| OR-----<br><br><br><br><br><br> | 28/09/2021                  | <p>PP for the State present. Accused is absent. Warrant issued against the accused returned with the report of DFC that the accused is behind the bar in connection with case FIR No.447 dated 02.04.2020 registered U/S 302/148/149 PPC at PS Mathra.</p> <p>Allegations against accused Sartaj Khan was are that on the eventful day, time and place, the accused facing trial made firing at complainant with intention to commit his qatal-i-amd as a result of such firing complainant got hit and receive fire arm injury, hence the instant case FIR.</p> <p>On 17/07/2021 injured/complainant namely Alam Khan appeared before the court and after due identification voluntarily recorded his statement to the effect that he has patched up the matter and pardon the accused namely Sartaj in the name of Allah Almighty and expressed no objection on his acquittal in the case in hand.</p> <p>In view of the above discussed facts, since the complainant/injured has effected genuine compromise with the</p> |

| Serial No. of Order or Proceeding | Date of Order or Proceeding | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary   |
|-----------------------------------|-----------------------------|---|
| Contd...                          | 28/09/2021                  | <p>accused; the offence is compoundable; the compromise appears to be genuine and without any duress and coercion, I, therefore, while accepting the compromise acquit the accused namely Sartaj in his absence from the charges leveled against him. He is on bail in the case in hand, his sureties are relived from the liabilities of their bail bonds.</p> <p>Case property, if any, be kept in fact till the expiry of period of appeal/revision and thereafter be disposed off according to law. File of this Court be consigned to the record room after completion and compilation.</p> <p><u>Announced</u><br/>28/09/2021</p> <p style="text-align: right;"> <br/>           (Muhammad Sajid)<br/>           ASJ-XIII, Peshawar.         </p> <p style="text-align: center;"> <br/>           MUHAMMAD SAJID<br/>           Additional District &amp; Sessions<br/>           Judge-XIII Peshawar.         </p> <p style="text-align: right;">           CERTIFIED TO BE TRUE COPY<br/> <br/>           (Ex. No. 10-1)<br/>           Copying Agency District Court<br/>           Peshawar.         </p> |

6

44434

|                  |          |
|------------------|----------|
| No.              | .....    |
| Date of Delivery | 07-10-21 |
| Name of Party    | Sartaj   |
| Vol.             | 8        |
| Page             | 9        |
| Date of Receipt  | 07-10-21 |
| Date of Delivery | 07-10-21 |



کے احکامات کے مطابق AST کے احکامات کے مطابق  
سرکار کا نام

B.P.D  
[Signature]

میں نے جس عالم خاں کو صدر قاضی کے احکامات کے مطابق  
کے احکامات کے مطابق F.I.R. کی صورت میں 05/01/2020  
پر 324 نمبر پر ف.I.R. کی صورت میں 18  
P.P.C کے احکامات کے مطابق صدر قاضی کے احکامات کے مطابق  
قصر قاضی کے احکامات کے مطابق صدر قاضی کے احکامات کے مطابق  
سرکار کے احکامات کے مطابق صدر قاضی کے احکامات کے مطابق  
کے احکامات کے مطابق صدر قاضی کے احکامات کے مطابق

عالم خاں کو حکم جاری  
17304 785242-7

3.7 JUL 2021

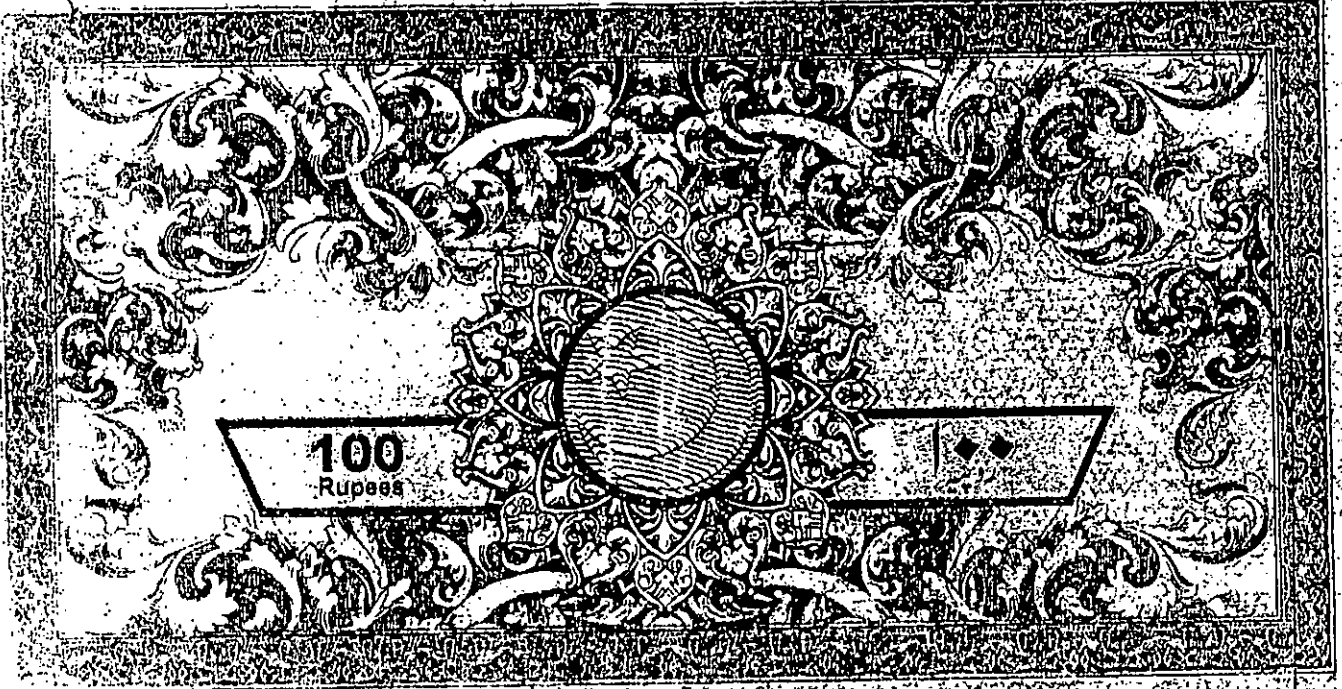
ATTESTED

09 JUL 2021

(Examiner)  
District Court Peshawar

ATTESTED  
Haliz Muhammad Sadiq Durani  
NOT RAY PUBLIC  
Advocate High Court Peshawar





بیمدائت جناب پشاور ہائی کورٹ پشاور

راضی نامہ مابین فریقین



مایا مکہ عام خان ولد محمد اقبال سکندھ حسن آباد تحصیل ضلع پشاور کا ہوں درینوقت حلقہ ایمانی ہوں کہ میں نے ایک صد ایف آئی آر نمبر 18 'سوری' 05-01-2020 زید دفعہ 324 پی بی سی اتھارڈ خزانہ بر خلاف ملزم سرتاج خان ولد محمد اجمل خان سکندھ حسن آباد تحصیل ضلع پشاور و عویداری کی تھی اسے چونکہ علاقہ معززین اور جرگہ مشران کی مداخلت سے ہم نے اس میں نے ملزم فریق کے ساتھ راضی نامہ کر لیا ہے۔ اب میں نے ملزم سرتاج خان ولد محمد اجمل خان کے خلاف BCA عدالت ہذا میں دائر کیا ہے۔ اب میں خوشی خود اپنی درخواست واپس لیتا ہوں اور اس کے خلاف BCA نہیں کرنا چاہتا ہوں کیونکہ میں نے ملزم سرتاج خان ولد محمد اجمل خان کے ساتھ خانگی راضی نامہ مداخلت علاقہ کے معززین و جرگہ مشران کیا ہے میں ملزم سرتاج خان ولد محمد اجمل خان کے خلاف مزید کوئی کارروائی نہیں کرنا چاہتا ہوں اور اپنا BCA درخواست واپس لیتا ہوں۔

المرقوم: 19/06/2020

لہذا ایمان حلقہ راضی نامہ تحریر کر کے لکھ دیا ہوں تاکہ سند رہے اور بروقت ضرورت کام آئے۔

سرتاج خان ولد محمد اجمل خان (ملزم)

شناختی کارڈ نمبر: 17301-0516921-5

عام خان ولد محمد اقبال (رہبانہ)

شناختی کارڈ نمبر: 17301-7852312-7

گواہ شاہ

شناختی کارڈ نمبر: 17301-0265814-1

گواہ شاہ

شناختی کارڈ نمبر: 17301-9772734-5

BEFORE THE CAPITAL CITY POLICE OFFICER,  
PESHAWAR

Annexure (G)  
Page (57)

DEPARTMENTAL APPEAL AGAINST  
THE ORDER DATED 29/12/2020 OF  
THE SUPERINTENDENT OF POLICE  
CITY TRAFFIC POLICE PESHAWAR  
WHEREBY I HAVE BEEN DISMISSED  
FROM SERVICE

52  
16/12/2021

Respected Sir,

|         |     |         |
|---------|-----|---------|
| Dy: No. | 173 | PA-CCPO |
| Di:     | 11  | 3331    |
| Fac:    |     |         |

1. That I was enlisted in Police Department some 27 years ago and since enlistment I have performed my duties with honesty, full devotion and to the entire satisfaction of high ups.
2. That in April 2020, I while posted to Traffic Police Peshawar was falsely involved in criminal case, vide FIR No. 447, dated 02/04/2020, Under Section 302/324/458/460/148/149 PPC Police Station Mathra and was arrested the same day and still is in the judicial lock up. (Copy of FIR is attached as Annexure-A)
3. That charge sheet with summary of allegation was issued which was replied accordingly refuting the allegations. (Copy of charge sheet and reply is attached as Annexure-B and C respectively)
4. That thereafter I was dismissed from service by the Superintendent of Police City Traffic Police Peshawar vide order dated 29/12/2020. (Copy of which was not communicated to me and my father obtained copy of the same on 08/02/2021. (Copy of order dated 29/12/2020 is attached as Annexure-D), hence this appeal on the following grounds:

esp/legal

By: [Signature]

4/11/2021  
314-9338081

**GRUNDS:**

- A. That the order dated 29/12/2020 is illegal and void-ab-initio.
- B. That the no inquiry has been conducted in the matter to find out the true facts and circumstances as I am falsely implicated in criminal case.
- C. That being in custody no show cause notice has been communicated to me.
- D. That similarly opportunity of personal hearing was not offered to me.
- E. That the criminal case is still pending while before the decision of the same I have been dismissed from service in violation of law and rules on the subject.
- F. That I did nothing which amounts to misconduct as no one could be dismissed from service on mere allegations of involvement in criminal case.
- G. That I have 27 years of service with unblemished record.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 29/11/2020 of the Superintendent of Police Head Quarters City Traffic Police Peshawar may kindly be set a side and I may be reinstated in service with all back benefits.

**Sartaj Khan**  
 Ex-Constable No. 248  
 Traffic Police Peshawar

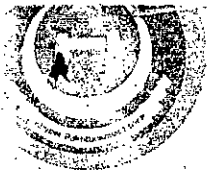
Through his father

  
**Muhammad Ajmal Khan**

11/2/2021

03-8788453  
 314-9229081  
 PP  
 274





OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

(59)

694  
1/3/2023

ORDER.

This order will dispose of the departmental appeal preferred by Ex- Constable Sartaj Khan No. 248 who was awarded the major punishment of "Dismissal from service" under KP PR-1975 (amended 2014) by SP/IIQr: City Traffic Police Peshawar vide order No. 684-87/PA, dated 29-12-2020.

2- Short facts leading to the instant appeal are that the accused Constable was proceeded against departmentally on the charges that he while posted at City Traffic Police Peshawar, involved in criminal cases vide FIR No. 447, dated 03.04.2020 u/s 302/324/458/460/148/149 PPC Police Station Mathra Peshawar and FIR No. 18, dated 05.01.2020 u/s 324 PPC Police Station Khzana Peshawar.

3- He was issued proper Charge Sheets and Summary of Allegations by Chief Traffic Officer Peshawar. Two separate inquiries were conducted against him through DSP/IIQr: City Traffic Police Peshawar and DSP/Cantt: City Traffic Police Peshawar to scrutinize the conduct of the accused official. The inquiry officers after conducting proper inquiries submitted their findings in which both the enquiry officers recommended that the enquiries may be kept pending till the decisions of the Honourable Courts. On receipt of the findings of enquiry officers the competent authority do not agree with the recommendations of the enquiry officers and awarded him the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant categorically denied the allegations and stated that he was falsely been implicated in the said FIRs. Moreover, the Honourable Courts of Additional Session Judges-XIII & IX Peshawar vide orders dated 28.09.2022 and 16.01.2023 acquitted him of the charges levelled against him in the said FIRs. Keeping in view his plea and other documentary proof, his appeal for reinstatement in service is hereby accepted. The punishment order of SP/IIQr: City Traffic Police Peshawar is hereby set aside. **He is hereby reinstated in service with immediate effect. The period he remained out of service is treated as leave without pay.**

534  
27-2-2023

(MUHAMMAD IMAZ KHAN) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

SP/IIQr/PO/sac-11/2023  
for n/pt  
1/3/23

No. 201-03 /PA dated Peshawar the 24/02/2023

Copies for information and necessary action to the :-

1. Chief Traffic Officer Peshawar, along with complete inquiry file and Fouji Missil.
2. SP/IIQrs City Traffic Police Peshawar.
3. Official Concern.


ORDER

This is an order on the departmental enquiry initiated against Constable Sartaj Khan No.248 for involvement in case FIR No.447, dated 03.04.2020 U/S 302/324/458/460/148/149 PPC, PS <sup>mathra</sup> Umar, district Peshawar. He was charge sheeted and DSP/Cantl. Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

He submitted his reply to the charge sheet stating therein that a fight incident took place between his relatives and the opponent party, at about 3 km away from his village. He also told that he was unaware of the whole incident but during midnight at 02 am while sleeping, SHO Mathra along with police party raided his house and arrested him and his brother falsely implicated by the opponent party in the FIR in which 4 persons were died and 05 other injured. The Enquiry officer recorded statements of Police officials and other relevant people and came to the conclusion that he had failed to prove his innocence, therefore, recommended him for suitable punishment as the accused constable is in jail who was arrested by the local police immediate after the occurrence.


Besides the above case, the accused constable had also been involved in case vide FIR No.18, dated 05.01.2020 U/S 324 PPC, PS Khazana, and a departmental enquiry had also been conducted against him. Keeping in view recommendation of the Enquiry Officer as well as the case file, Constable Sartaj Khan No.248 is awarded major punishment of Dismissal from Service under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect.

Order announced.

  
SUPERINTENDENT OF POLICE, HQRS.  
CITY TRAFFIC POLICE, PESHAWAR.

No. 604-87 IPA, Dated Peshawar the 29/12/2020.  
Copies for information and necessary action to the:-

1. Chief Traffic Officer, Peshawar.
2. Accountant
3. OSI
4. SRC (along-with complete enquiry file consisting of 199 pages)

|                                       |       |   |  |   |
|---------------------------------------|-------|---|--|---|
| قیمت<br>50 روپے                       | 68704 |  |  |  |
| ایڈوکیٹ: اسٹریٹسٹ سرفیس ایسوسی ایٹس   |       | پشاور بار ایسوسی ایشن، خیبر پختونخواہ   |  |   |
| بار کونسل/ ایسوسی ایشن نمبر: BC108078 |       |   |  |   |
| رابطہ نمبر: 03339888231               |       |   |  |   |

بعدالت جناب: حسین سروس ٹریڈنگ سیر پختونخواہ

|   |                      |
|---|----------------------|
| مخاطب: اسٹریٹسٹ سرفیس   | دعویٰ: سروس اسٹریٹسٹ |
|  | علت نمبر:            |
|   | موردہ:               |
|   | جرم:                 |
|   | تھانہ:               |

باعت تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
 آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز نوکیل صاحب کو  
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں برداشت کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور نوکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساتھ پر داخستہ منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو نوکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

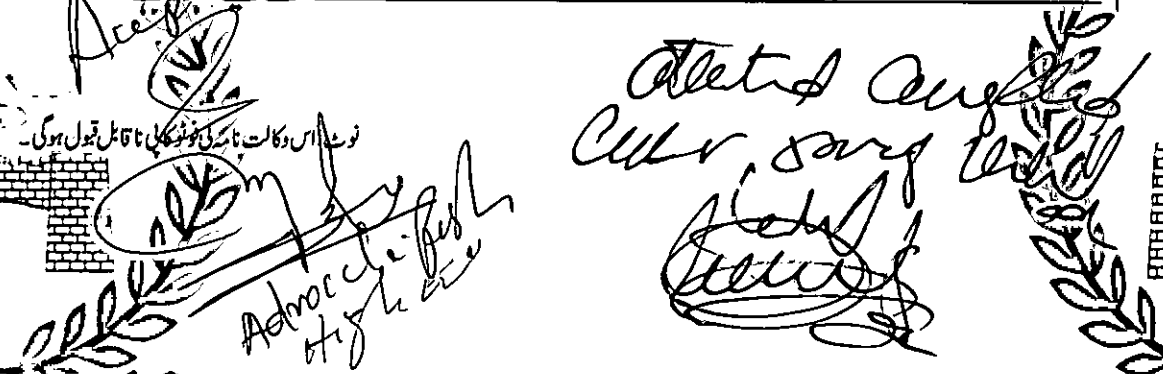
المقوم:



الع وادہ

نوٹ اس وکالت نامہ کی کوئی کاپی ناقابل قبول ہوگی۔

Advocate High Court



سراج ضلع و ملو جھرا جملہ ضلعانہ کی جہاں آباد