

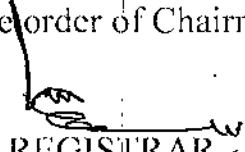
FORM OF ORDER SHEET

Court of _____

Case No.-

374

/2023

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/02/2023	<p>The appeal of Mr. Rehmat Hussain presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 374 /2023

REHMAT HUSSAIN

V/S

POLICE DEPTT:

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APPELLANT

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATE, SUPREME COURT.

15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 374 /2023

Mr. Rehmat Hussain, Ex-LHC No.5865 Platoon No.27,
Elite Force Khyber Pakhtunkhwa Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
- 3- Regional Police Officer, Peshawar Region at Swat.
- 4- District Police Officer, District Swat.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 24-06-2021 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 13-07-2022 AND REVISION ORDER DATED 09-02-2023 WHEREBY DEPARTMENTAL APPEAL AND THE REVISION PETITION OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned order dated 24-06-2021, Appellate order 13-07-2022 and revision order dated 09-02-2023 may very kindly be set aside and the appellant may kindly be reinstated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHWETH:

ON FACTS:

1. That appellant was an employee of the respondent Department and performing his duty his duty with full zeal & zest and up to the entire satisfaction of his high ups.
2. That the appellant while performing his duty was charged in a criminal case vide FIR No.110 dated 25-03-2020 under section 302/324/34 PPC in Police Station Dargai. That after lodging of FIR the appellant filed his pre arrest bail petition before the Honorable Additional Session Judge Malakand At Batkhela which was dismissed and the appellant were sent to judicial lockup due to which the appellant was remained absent from his duty for 24 days hence the appellant was suspended from his service with immediate effect i.e. 16-04-2020. Copy of FIR, and office order Dated 16-04-2020 are attached as annexure..... **A, B.**
3. That the appellant was acquitted from the above charges by the court of Honorable Additional Sessions Judge dated 09-06-2022.

Copy of Acquittal order Dated 09-06-2022 is attached as annexureC.

- 4. That after securing acquittal from the competent court of law when the appellant approached the concerned quarter for joining his duty the appellant was handed over the impugned order dated 24.06.2021, feeling aggrieved from the impugned order dated 24-06-2021 the appellant filed departmental appeal which was rejected by respondent no.2 without assigning any cogent reason vide appellate order dated 13-07-2022. Copies of impugned order dated 24.06.2021, department appeal & appellate order dated 13.07.2022 is attached as annexure D, E & F.
- 5. That appellant feeling highly aggrieved from the order dated 13-07-2022 the appellant filed revision petition before the Inspector General of Police Khyber Pakhtunkhwa on dated 20-07-2022 but that was also regretted with no good grounds on dated 09-02-2023. Copy of revision petition and order dated 09-02-2023 are attached as annexure..... G, H.
- 6. That feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That impugned order dated 24-06-2021, Appellate order dated 13-07-2022 and revision order dated 09-02-2023 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That it is too heartburning that when the competent court of law has acquitted the appellant for the criminal charges, then there is no plausible ground or justification to proceed and punish the appellant for one and the same charges. The act of respondents is tantamount to double jeopardy which is strictly forbidden by the constitution of Islamic Republic of Pakistan 1973.
- D- That no charge sheet and statement of allegations had served upon the appellant.
- E- That no regular inquiry has been conducted in to the matter, hence the appellant has been condemned unheard.
- F- That no right of personal hearing and personal defense has been provided to the appellant.

- G- That, the treatment meted out to the appellant clearly based on discrimination and malafide and as such the respondents violated the Principle of Natural Justice.
- H- That even otherwise the penalty imposed upon the appellant is very harsh by Dismissing the appellant from service which does not commensurate with the facts and circumstances of the case of the appellant which is not maintainable in the eye of law.
- I- That the appellant had more than 25 years of service at his credit. During his entire service, the appellant was never earlier been charge sheeted for dereliction of duties. The penalty is therefore very harsh and liable to be set aside on this ground also.
- J- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted as prayed for, please.

Dated: 22-02-2023



APPELLANT
REHMAT HUSSAIN

Through:



NOOR MOHAMMAD KHATTAK



KAMRAN KHAN



KHANZAD GUL,



MUJEEB UR REHMAN MANDUKHEL,

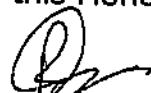


AIZAZ MUGHALKHEL

Advocates, Peshawar

AFFIDAVIT

I, Rehmat Hussain, Ex-LHC No.5865 Platoon No.27, Elite Force Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

ایسٹرن جنرل پولیس سوبہ سرحد فارم نمبر ۷۲ گورنمنٹ پریس پشاور جناب نمبر 19/540 فارم نمبر۔ تعداد دو ہزار راجسٹری۔ مورخہ 23 مارچ 2006ء بمبئی فور (فارم شور جاہز) ضمنی فارم (پولیس)

فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاعی رپورٹ

کاؤنٹر فائل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 154 مجموعہ ضابطہ نو جداری

ضلع: ملاکنڈ

تھانہ: درگئی

تاریخ وقت وقوعہ 15:25، 25/03/2020

حالت نمبر: 1101

1	تاریخ وقت رپورٹ: 15:40، 25/3/2020	چاکیدگی پرچہ 25/3/2020 وقت 16:30 بجے
2	نام و سکونت اطلاع دہندہ مستغیث	محمد صادق ولد زور طلب خان سکنہ ہریانکوٹ
3	مختصر کیفیت جرم (معدہ دفعہ) حال اگر کچھ لیا گیا ہو۔	302-324-337-34PPC-15AA
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت:-	راستہ عام نزد مکان ملزمان بقاصلہ تھینا ایک کلومیٹر غراباز چوکی
5	نام و سکونت ملزم	منور خان ولد بہرام خان سکنہ ہریانکوٹ، رحمت حسین ولد منور خان سکنہ ہریانکوٹ، منظور حسین ولد منور خان سکنہ ہریانکوٹ
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بہ رسیدگی مراسلہ پرچہ چاک کیا جاتا ہے
7	تھانہ سے روانگی کی تاریخ وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

بوقت صدر بجے ایک تحریری مراسلہ منجانب IHC خان سلام چوکی گڑھی عثمانی خیل بدست مدد محرم جہانگیر خان نمبر 6222 موصول ہو کر ذیل میں درج کی جاتی ہے بحضرت انچارج آفیسر تھانہ درگئی مضمون مراسلہ آج مورخہ 25/03/2020 کو بوقت 15:35 بجے محرم محمد صادق، ہمراہ برادر اش تیمور خان پسران زور طلب خان ساکنان ہریانکوٹ، بحالت مجروحیت چوکی ہذا آکر محمد صادق رپورٹ کرتا ہے کہ امروز میں مع برادر ام تیمور خان ہریانکوٹ بازار سے گھر خود جا رہے تھے جب بوقت 15:25 بجے نزد مکان ملزمان بالا آئیے تو ملزمان، منور خان ولد بہرام خان 2 رحمت حسین 3 منظور حسین 4 ظہور حسین پسران منور خان ساکنان ہریانکوٹ اپنے مکان کے باہر ڈنڈوں سے لیس کھڑے تھے اور مردست ہم پر ڈنڈوں سے داریں شروع کی، ملزمان ایک داروں سے سردائیں بائیں ہاتھ جبکہ برادر ام تیمور خان سپر پر لگ کر زخمی ہوئے اس دوران ہتھیار امرا اکبر ولد میر اکبر، خواتین خانہ اور پڑوسیوں نکل آئیں ملزمان نے اپنے مکان سے گلاشکونٹیں، پستولیں نکال ہم پر بہ ارادہ قتل فائرنگ شروع کی فائرنگ سے ہم برادران بچ گئے جبکہ ہتھیار امرا اکبر ملزم رحمت حسین کے فائرنگ سے لگ کر جاں بحق ہو چکا ہے ملزمان بعد واردات فرار ہونے وجہ عداوت ملزمان کے ساتھ اراضی پر تنازعہ ہے وقوعہ ہذا برادر ام تیمور خان خواتین، دیگر پڑوسیوں کا چشم دید ہے پس ملزمان بالا کے خلاف اپنے مجروحیت اور امرا اکبر کو قتل کرنے کا دعویدار ہوں دستخط انگریزی رپورٹ کنندہ میں برادر ام کے رپورٹ کی تائید کرتا ہوں، دستخط انگریزی تائید کنندہ کارروائی چوکی حسب گفتہ سائل کارپورٹ حرف بحرف درج صدر ہو کر سائل کو اپنا رپورٹ پڑھایا سمجھایا گیا بعد تسلیم سائل نے رپورٹ دستخط انگریزی جبکہ تائید کنندہ نے بھی دستخط انگریزی خود ثبت کی جس کا میں تصدیق کرتا ہوں اس دوران رشتہ داران نے امرا اکبر کا نقش ہسواری سوزو کی پک اپ لاکر مجرحین، مقتول کیلئے نقشہ ضرور رپورٹ مرگ مرتب کر کے CH درگئی روانہ کئے گئے صورت رپورٹ سے جرم بالا پائی جا کر مراسلہ بغرض قائمی مقدمہ بدست مدد محرم جہانگیر خان نمبر 6222 ارسال تھانہ میں مصروف تفتیش ہوں دستخط انگریزی IHC خان سلام چوکی گڑھی عثمانی خیل محرمہ 25-03-2020 کارروائی تھانہ موصولہ تحریری مراسلہ حرف بحرف درج ہو کر ملزمان بالا کے خلاف مقدمہ جرم بالا درج رجسٹر ہو کر اصل مراسلہ نقل FIR بغرض تفتیش بہ عقب IHC خان سلام بدست آمدہ مدد محرم رواہیں بھجویا جاتا ہے پرچہ گزارش ہے دستخط انگریزی محرمہ رسید کیس تھانہ درگئی محرمہ 25-03-2020۔

دستخط انگریزی

"B" -5-



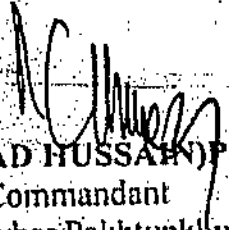
Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 4P06-12/EF

Date: 16/04/2020

ORDER

LHC Rehmat Hussain No. 5865, Platoon No. 27 of Elite Force Khyber Pakhtunkhwa is hereby suspended and closed to Elite Headquarters Peshawar as he is charged in case FIR No. 110 dated 25.03.2020 U/S 302/324/337/34 PPC Police Station Dargahi district Malakand, with immediate effect.


(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar.

Copy of above is forwarded to the:-

1. Superintendent of Police, Elite Force HQrs Peshawar.
2. Superintendent of Police, Elite Force Mardan w/r to his office memo No. 134/EF, dated 26.03.2020.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
5. OASI, Elite Force Khyber Pakhtunkhwa, Peshawar.
6. SRC/FMC, Elite Force Khyber Pakhtunkhwa, Peshawar.

BY THE COURT OF RAHIMULLAH KUNDI,
ADDITIONAL SESSIONS JUDGE/MCTC,
MALAKAND AT BARKHELA.

Sessions Case No.....75/7 of 2020
Date of institution.....28.10.2020
Date of entrustment to this court31-10-2020
Date of Decision.....09.06.2022

The State

--VS--

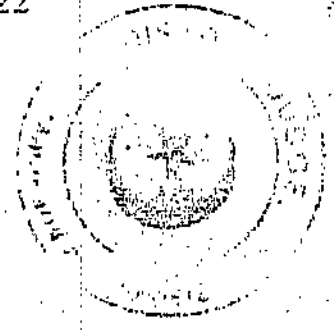
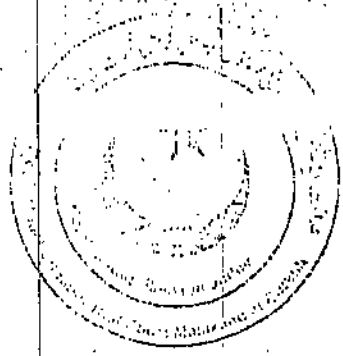
1. Rehmat Hussain,
 2. Manzoor Hussain,
 3. Zahoor Hussain sons of Munawar and
 4. Munawar Khan s/o Behram Khan residents of Haryankot, Tehsil Dargai, District Malakand.
- (Accused Facing Trial)

Cited as:
Vide F.I.R. No.110, dated:25.03.2020,
O/S 302/324/337 A(ii)/34/15-AA, Levy Post Dargai, District Malakand.

JUDGMENT:
09.06.2022

1. The accused facing trials named above were tried by this Court on the charge supra.

2. *Résumé* of facts of the instant case is that on 25.03.2020, the complainant Muhammad Saqib in injured condition reported the matter to the local Levy officials in the police station where he along with his injured brother Taimor came and alleged that on the eventful day at 1525-hours, he along with his brother Taimor was proceeding from Haryankot bazar to their house and as soon as they reached



QAWWAL

09-06-2022
RAHIMULLAH KUNDI
Additional Sessions Judge
Malakand

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Sd/-
Sd/-

**ADDITIONAL SESSIONS JUDGE/MTCT
MALAKAND AT BATKHELA**

Sessions Case No 75/7 of 2020

Date of Institution28.10.2020

Date of Entrustment to this court 31.10.2020

Date of Decision..... 09.06.2022

The State

VERSUS

1. Rehmat Hussain
2. Manzoor Hussain
3. Zahoor Hussain Sons of Munawar and
4. Munawar Khan S/o Behram Khan residents of haryankot, tehsil Dargai, District Malakand.

(Accused Facing Trial)

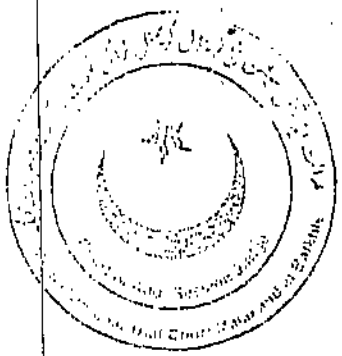
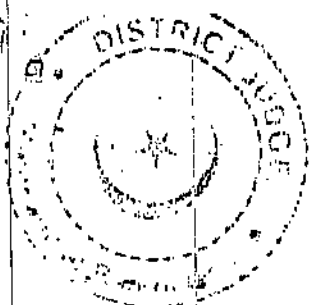
Charged:

Vide FIR No. 110, dated 25.03.2020 U/S 302/324/337 A(ii)/34/15-AA, Levy Post Dargai, District Malakand

JUDGMENT:

09.06.2022

1. The accuse facing trials named above were tried by this court on the chargessupra.
2. Resume of facts of the instant case is that on 25.3.2020 the complainant Muhammad Sadiq in injured condition reported the matter to the Local Levy Officials in the police station where he along with his injured brother Taimor came and alleged that on the eventful day at 1525 hours, he alongt with his brother Taimor was proceedings from Haryankot Bazar to their house and as soon as they reached



near the house of accused, the accused Munawar, Rehmat Hussain, Manzoor Hussain and Zahoor Hussain armed with sticks were present outside their house and started beating them due to which he was injured on his head and both hands whereas his brother Taimor was injured on his head. In the meantime, his nephews, Ahmad Akbar and Mir Akbar, womenfolk and the neighbors emerged from houses whereas the accused came out of their houses duly armed with pistols and Kalashnikovs and started firing at them however he remained unscathed whereas his nephew Ahmad Akbar was

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09-06-2022

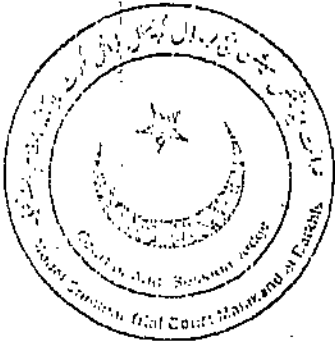
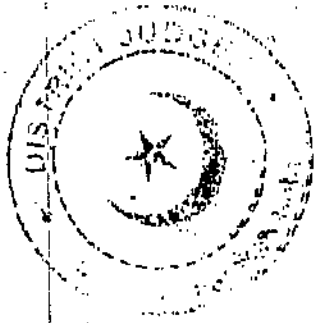
(RASHID ULLAH KUNDI)
Additional Sessions Judge
Court of Additional Sessions Judge, Malakand in Dinkhela

hit and died due to firing of accused Rehmat Hussain. Motive for the commission of offence was handed down as "dispute over landed property". He thus, also charged the accused named above for the alleged offence.

3. After completion of investigation, complete challan was put in Court against the accused. Accused were summoned whereof, Manzoor Hussain, Zahoor and Munawar appeared being on bail, whereas, accused Rehmat Hussain was produced in custody. Compliance of the provision of S. 265-C Cr.P.C was made and on 18.11.2020, they were charge sheeted to which they pleaded 'not guilty' and claimed trial.


4. The prosecution, in order to prove its case against the accused facing trial produced as many as (12) witnesses, a brief gist where mentioned here under;

Page 7 of 10



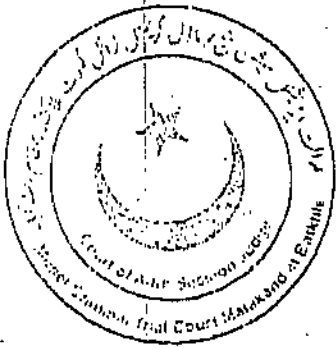
a. PW-1 is the statement of Naushad Ali DFC who executed warrant u/s 204 Cr.P.C and proclamation notices u/s 87 Cr.P.C against accused Rehmat Hussain and Zahoor Hussain and he executed the same in accordance with law.

b. PW-02 is the statement of Dr. Yaseen Muhammad who on 25-03-2020 at 05:00 pm, dead body of deceased Ahmad son of Mir Akber, resident of Haryankot was brought by relatives (1) Said Akber son of Zoor Talab, aged about 35 years resident of Haryankot CNIC No. 15401-7769966 (2) Waris Khan son of Mehrian Khan and he conducted Post mortem of the deceased and found a FAI Entry wound on left side chest over tip of the shoulder. Size .5 x 1 round penetrating with no exit. No charring marks around the wound. X-Ray done for bullet. Cause of death of the deceased was due to injury to lungs, heart, major blood vessels of thorax due to firearm. Probable time between injury and death was described to be immediate and time between death and post mortem was given to be 01 to 03


09-06-2022

MAHMOUD ULLAH KHAN
Sessions Judge / District Trial Court Malakand at Bakhela

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hours. He also examined injured Taimor and found Head injury, lacerated wound on the left side forehead just on left eyebrow 1 x 2 cm in size deep. Bone exposed. Shajah Mudihah. The report is Ex: PW-2/3. On the same day, he also examined injured Muhammad Sadiq son of Zoor Talab resident of Haryankot and found lacerated wound on the left side of skull 1 x 2 cm in size, bone intact. Shajah Khafifa. The MLR is Ex: PW2/4.

c. PW-03 is the statement of Muhammad Umar Madad Muharir who was handed two application along with parcel No. 01 to 05, copy of FIR, recovery memo on 20-04-2020 and on 25-03-2020, he collected the said parcels from Said Kamin MHC and deposited the same in FSL. He obtained receipts, Ex-PW-3/1 and Ex-PW-3/2 respectively from FSL and handed over the same to the IO on his return.

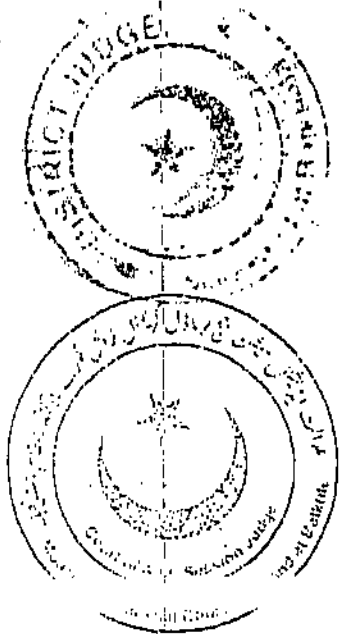
d. PW-04 is the statement of Jehangir Madad Moharir who stated that he along with Qadar Khan IHC were present with the Investigation Officer Khan Salam at the time of arrest of accused Munawar Khan and Manzoor Khan at

[Handwritten signature]

09-06-2022

(RASHEED ULLAH KUNDI)
Additional District & Sessions
Judge Malakonda in Barkhela
Court Malakonda in Barkhela

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Pori Shah Banda Garhi Usmani Khel. During the personal search nothing was recovered from accused Munawar Khan whereas from trouser fold accused of Manzoor Khan 30 bore pistol having "CAL 30 MAUSER MADE AS CHINA BY NARINCO" with fixed charger containing 5 cartridges Ex:P-1 and took the same into possession vide recovery memo Ex: PW4/1 which correctly bears his signature as well as the signature of co-marginal witness Qadar Khan.

09-06-2022
(RASHID ULLAH KUNDI)
Additional District & Sessions
Judge / Magistrate Criminal Trial
Court Malakand at Batakheh

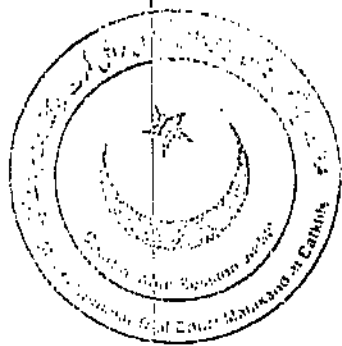
- e. PW-05 is the statement of Muhammad Sadiq who is the complainant of the instant case and he reiterated the same facts which were alleged in the report.
- f. PW-06 is the statement of Taimor Khan who is eye-witness of the alleged occurrence and he alleged the same facts which were leveled in the report by the complainant.
- g. PW-07 is the statement of Waseem Khan who stated that he was present at thoroughfare and heard hue and cries where after he rushed to the spot and saw the accused facing trial Munawar, Manzoor Hussain and Zahoor Hussain beating

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District Judge

the complainant Muhammad Sadiq and eye-witness Taimoor due to which they were injured. The parties were separated where after the accused entered their house and emerged duly armed with pistols and Kalashnikovs. They started firing due to which they remained unscathed whereas Ahmad Akbar was hit and died due to firing of accused Rehmat Hussain. The site plan was prepared on the pointation of Waseem Khan.

h. PW-08 is the statement of Said Kameen who registered the instant case FIR, Ex-PA on the receipt of Murasila. He made entries in register No. 19 in respect of parcels and sent the same to FSL on 20-04-2020 through Muhammad Umar Madad Moharir.

i. PW-09 is the statement of Said Akbar Khan who is the marginal witness to the recovery memo Ex: PW-9/1 vide which the I.O secured blood stained earth from the place of deceased Ahmad Akbar and sealed the same into Parcel No. 01 Ex: PC. Vide the same memo the I.O also took into possession six empties giving fresh smell of firing of 7.62 bore Ex: PD put his initial over it

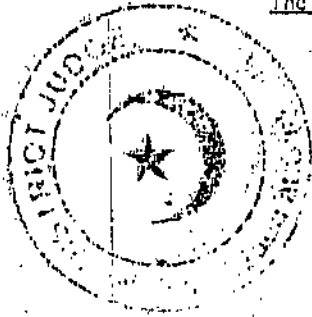


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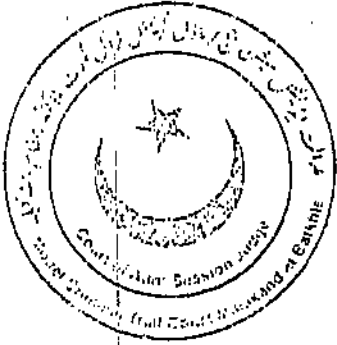
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and sealed the same into Parcel No. 02. He is also marginal witness to the recovery memo Ex: PW-9/2 dated 26-03-2020 vide which Waseem Khan produced the blood stained last wore clothes black in color which was having bullet cut marks which is Ex: PE and sealed into Parcel No. 03. Likewise the blood stained clothes of Taimoor Khan and Sadiq Khan were also produced to the I.O which he took into parcel No. 04 & 05 respectively. The clothes of Taimoor Khan is Ex: PF and Ex: PG respectively. After the Post Mortem examination, the dead body of Ahmad Akbar was handed over to him vide memo Ex: PW-9/3. He had also identified the dead body of the deceased before the police and doctor in the Hospital.

j. PW-10 is the statement of Fazal Subhan who is armorer in Malakand Lines and on 13-04-2020, he examined one 30 bore pistol along with magazine having five rounds which was produced by Khan Salam IHC and he opined that the pistol was local made and was in working condition.

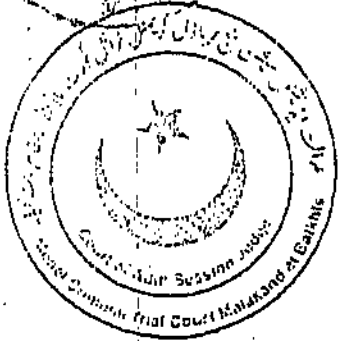
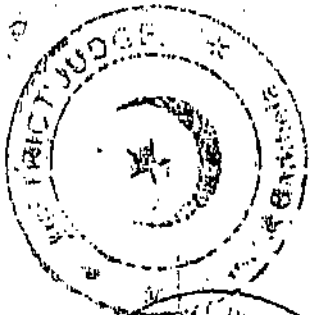
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k. PW-11 is the statement of Khan Salam IHC who scribed report of the complainant in the shape of Murasila, Ex-PA/1 and also prepared the injury sheet and inquest report of the deceased Ahmad Akbar. After registration of the case, investigation of the case was entrusted to him and he prepared the site plan at the instance of the complainant and eye-witness. He secured blood stained earth from the place of deceased Ahmad Akbar and also took into possession 06 empties of 7.62 bore from places of accused. The blood stained shirt of the deceased as well as shirt of injured Sadiq and Taimoor were also taken into possession vide recovery memo. He also arrested accused Munawar and Manzoor and also allegedly recovered pistol from possession of accused Manzoor. The accused were produced before judicial magistrate and warrants u/s 204 Cr.P.C and proclamation notices u/s 87 Cr.P.C against accused Rehmat Hussain and Zahoor.

l. PW-12 is the statement of Ilyas Khan who stated that the investigation was entrusted to him in the instant case on 16-06-2020. He arrested



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accused Rahmat Hussain and issued his card of arrest Ex: PW-12/1. On 17-06-2020 he vide his application Ex: PW-12/2 produced accused before the competent court for obtaining five days police custody on which one day police custody was granted. He conducted medical examination of the accused vide application Ex: PW-12/3 pre police custody. He also conducted the post custody medical examination of accused vide application Ex: PW-12/4. He produced the accused before the competent court and for further police custody vide application Ex: PW-12/5 where he refused to confess his guilt and sent to Judicial Lock-up. He placed on file the FSL reports which are Ex: PW-12/6 to Ex: PW-12/8.

5. *Thereafter, the prosecution closed its evidence*
6. Upon conclusion of prosecution evidence, this Court examined the accused facing trial under S. 342 Cr.P.C. They professed their innocence by refuting the allegations of prosecution. They however, did not opt to produce defense, nor did they choose to get themselves examined on oath as their own witnesses in disproof of the charges of prosecution.

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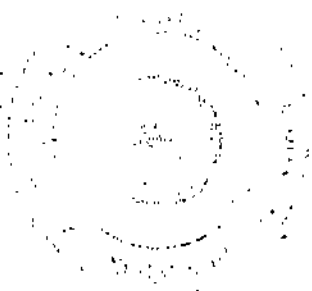
7. I have heard learned counsel for the parties at length, considered their rival arguments and perused the case record with their valuable assistance.

8. Learned Deputy Public Prosecutor for the State, Mr. Sikandar Zaman assisted by learned counsel for the complainant submitted that the accused facing trial Rehmat Hussain in furtherance of common intention with co-accused Munawar Khan, Zahoor Hussain, and Manzoor Hussain committed Qatl-e-Amd of deceased Ahmad Akbar by firing at him and all the accused attempted at the life of complainant Muhammad Sadiq and his brother Taimoor by firing ineffectively at them and also caused injuries to them through sticks. It was argued that prosecution led sufficient

evidence to prove the case against the accused facing trial in the shape of direct ocular evidence and the same remained un-shattered. Per learned prosecution team, medical evidence, recoveries from the spot and positive FSL report established the case against the accused facing trial beyond shadow of doubt. It was argued that defence side failed to cause any dent or doubt in the prosecution case. They placed reliance on worthy dicta reported in [2001 P.Cr.L.J 1766, PLD 2003 SC 243 and 2000 SCMR 1784].

9. On contrary, the learned defence counsel opposed the submissions made by the prosecution and submitted that the

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accused had been charged merely on the basis of assumption without any cogent and reliable evidence; that no reliable ocular account is available to substantiate the prosecution version; that the statements of complainant and PWs are unworthy of credence in light of contradictions and discrepancies therefore, cannot be relied upon without independent corroboration; that the statements of Investigating Officer and marginal witnesses about spot inspection, preparation of recovery memos, sealing of parcels etc. are not proved and are highly doubtful; that the FIR has been lodged with sufficient delay, therefore, the factum of consultations and deliberations cannot be ruled out; that scribing of the FIR, recovery memos, injury sheet and inquest report of the deceased have not been proved by the prosecution; that the mode and manner explained in the First Information Report by the complainant is totally contradictory to the medical report; that the site plan does not support the version of the prosecution; that the medical evidence is not compatible with ocular evidence; that when the prosecution advances a motive for the commission of an offence then it becomes obligatory for it to prove such motive but in the present case the prosecution failed to discharge such obligation; that a court of law, in a case involving capital punishment, will not base conviction of an

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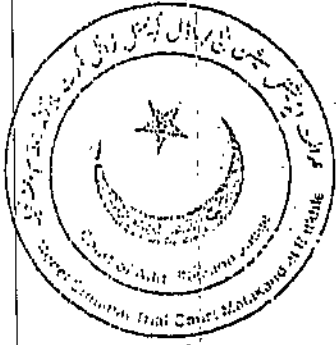
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accused solely on the testimony of interested witnesses; that the prosecution's witnesses produced are interlinked, inimical and hostile towards accused; that the prosecution failed to prove the charges levelled against the accused, due to which they deserve acquittal accordingly.



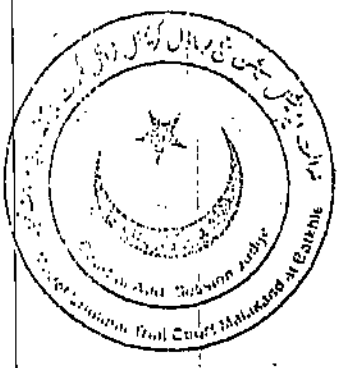
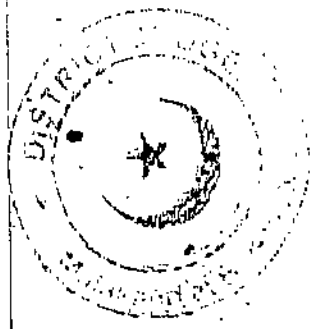
10. *After taking due note of submissions made on behalf of State, and those made on behalf of accused, this Court would like to proceed with its findings as follows:*

11. It evinces from available record that on 25.03.2020, the complainant Muhammad Sadiq in injured condition reported the matter to local level officials in the police post Garhi Usmankhel where he along with his injured brother Taimoor proceeded wherein it was alleged that on the eventful day at 1525-hours, he along with his brother Taimoor was returning to their house from Haryankot bazar and as soon as they reached near the house of accused, the accused Munawar, Rehmat Hussain, Manzoor Hussain and Zahoór Hussain armed with sticks were present outside their house and started beating them due to which he was injured on his head and both hands whereas his brother Taimoor was injured on his head. In the meantime, his nephew, Ahmad Akbar son of Mir Akbar, womenfolk and the neighbors also attracted there to the spot whereas the accused entered their house and came out duly armed with pistols and

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Kalashnikovs and started firing at them however he and his brother Taimoor remained unscathed whereas his nephew Ahmad Akbar was hit and died on the spot due to firing of accused Rehmat Hussain. Motive for the commission of offence was handed down as "dispute over landed property". The points for determination before this court are; whether the alleged occurrence took place in the mode and manner as alleged; whether the stamp of injuries on the person of the complainant Muhammad Sadiq and PW Taimoor may be made for considering their testimonies reliable and truthful; whether the counter version reported by Mst. Ambia disclosed the true account of the alleged occurrence; whether it may be inferred from the evidence that the accused party caused aggression; whether the prosecution proved the case against the accused facing trial beyond shadow of doubt.

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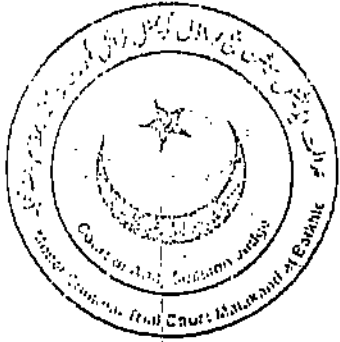
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12. As per the prosecution case, the alleged occurrence took place at 1525 hours whereas it was reported to the Levy Officials at 1540 hours. The report of the alleged occurrence was made by the complainant Muhammad Sadiq in the police post Garhi Usmankehel where he along with his brother Taimoor lodged the report of the alleged occurrence. The place of alleged occurrence is situated at a distance of 01 KM.

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from police posthence the report may be considered to be promptly lodged.



13. It was alleged by the complainant Muhammad Sadiq that on the eventful, he along with his brother Taimoor was proceeding to their house from Haryankot Bazar and was attacked by the accused who were armed with sticks due to which they were injured. The parties were separated where after the accused emerged from their house duly armed with pistols and Kalashnikovs and deceased Ahmad Akbar died due to firing of accused Rehmat Hussain. In the FIR, there is no specification of firearms carried by each of the accused rather it was alleged that they were armed with pistols and Kalashnikovs. In the inquest report there is no specification of the firearm with which death of deceased Ahmad Akbar was caused rather generic terms firearm was used. The injury sheet and inquest report bears particulars of the case including FIR and it suggested that the instant case was registered after preliminary investigation.

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14. The prosecution examined the complainant Muhammad Sadiq, PW-05 and Taimoor Khan, PW-06 who claimed to be eye-witnesses of the alleged occurrence and they were also injured in the same episode on account of their beating through sticks by the accused. The complainant Muhammad Sadiq, PW-05 alleged that "The accused went to

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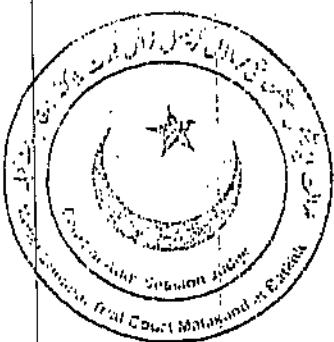
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their house and took out with rifles and started firing at us, as a result of firing of Rahmat Hussain, Ahmad Akbar got hit and died while I and Taimoör escaped unhurt." The complainant did not make specification of the firearms which were being carried by the accused at the time of firing. In the FIR, it was alleged that the accused emerged from their houses duly armed with pistols and Kalashnikovs whereas in his court statement, he stated that the accused were armed with rifles. He also admitted that "I had not disclosed the purpose of our visit to Haryankot Bazar in the report. I had not given the names of the women folk and neighbors in my report." He denied the suggestion that the accused facing trial Rehmat Hussain was given specific role of firing at the deceased to cause damage to his service in police. It was conceded by the complainant Muhammad Sadiq, PW-05 that "Mst. Ambia wife of Raid Ali has charged Abbas, Muhammad Yaseen, Zahid Hussain, Mushtaq Hussain, Dilaram, Dilawar Khan, Ifikhar, Taimoör, Majid, Wajid, Sajid, Ihtisham, Sarfaraz including me for causing injuries sustained to her which case is pending for trial today before this honourable court. The witness volunteered that the same reports is false and the injuries were self inflicted. The scuffling continued for about 5 to 10 minutes." In the report of the complainant, there is no mention of the fact that Mst.

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Ambia also sustained injuries in the same occurrence and no explanation was furnished by them as how she was injured due to firing. The complainant Muhammad Sadiq and eye-witness Taimor failed to explain the purpose of their presence on the spot in front of houses of accused despite the fact that there was dispute over landed property inter se the parties. It was admitted by the complainant that other streets also leads from Haryankot Bazar to their house. He stated that "Bazar Haryankot is on the eastern side of our house. While going to Bazar from our house, the street and house of one Waseem falls on the way. Self stated that there are 3/4 others paths leading from house to Bazar." The facts which led to scuffle inter se the parties and firing was made by the accused were not divulged. Similarly there is no explanation of the receipt of injuries by Mst. Ambia regarding which counter version was reported by her where he charged the complainant Muhammad Sadiq, eye-witness Taimor and others for causing injuries on her person. The minute study of the testimony of the complainant Muhammad Sadiq reveals that he made concealment regarding the actual facts and did not divulge the whole events leading to the death of Ahmad Akbar and causing injuries to Mst. Ambia. It may be inferred from evidence on record and facts of the case that the alleged



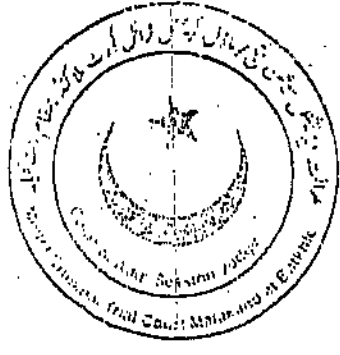
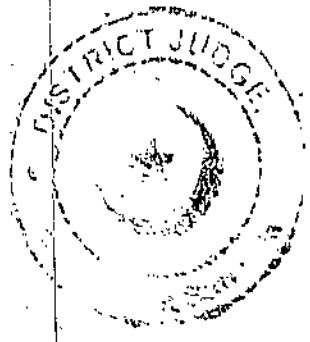
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occurrence did not take place in the mode and manner as alleged.

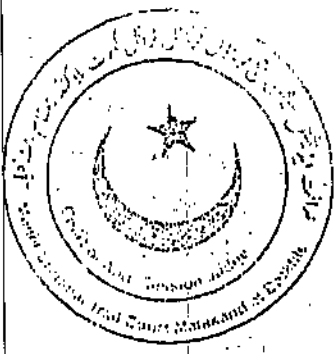


15. As discussed above, there is counter version of the alleged occurrence which was reported by Mst. Ambia to the local police and her report was reduced into writing in the station dairy at serial No. 18 dated 25-03-2020 at 1700 hours wherein she charged one Dilawar for effective firing and also charged the complainant Muhammad Sadiq, the injured Taimoor and others for ineffective firing and causing injuries through butts to her father Munawar Khan, her mother Mst. Bano and her brother Zahoor. It was admitted by the complainant Muhammad Sadiq that he along with others was charged by Mst. Ambia for causing firearm wound to her although he claimed that the said injury was self-inflicted. The medical evidence did not indicate that the injury received by Mst. Ambia was self-inflicted. It may not be ruled out that both the parties resorted to indiscriminate firing at each other due to which Ahmad Akbar was hit and died whereas Mst. Ambia also sustained firearm injury.

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16. The complainant alleged in the report that the occurrence was also witnessed by other neighbors and women who attracted to the spot however the names of the said persons were not divulged. During investigation, no person came forward in support of prosecution case. PW-07



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Waseem Khan was introduced as eye-witness of the alleged occurrence however his name did not find mention in the report. He claimed that he heard hue and cry in the thoroughfare where after he attracted to the spot and saw that the accused were beating the complainant Sadiq, PW Taimoor and Ahmad Akbar was also present there. No doubt the complainant and eye-witness Taimoor had the stamp of injuries on their persons and their presence on the spot is established, however this fact alone did not suggest that their testimonies was to be relied upon blindly. They are also interested and inimical witnesses and they charged a father and his three sons as accused for the commission of offence. As such independent corroboration was needed against the accused for safe administration of justice. The testimony of the complainant Muhammad Sadiq, eye-witness Taimoor and PW-07. Waseem do not inspire confidence and it transpires from the evidence on record that they made concealment of facts and did not disclose the actual events which led to the unfortunate occurrence. It may not be concluded from the presence of stamp of injuries on the persons of complainant Muhammad Sadiq and PW Taimoor that they are truthful witnesses and deposed actual events of the alleged occurrence. Guidance is sought from case law reported as

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2011 SCMR 323 titled Amin Ali and another Versus The State.



(e) Penal Code (XLV 1860)

---Ss. 302 & 34--- *Qatl-e-amd—Reappraisal of evidence--injured witness---Scope—Presence of injured witnesses cannot be doubted at place of incident merely because they had injuries on their person does not stamp them to be truthful witnesses.*

17. As discussed above, there is counter version of the instant case and Mst. Ambia nominated the complainant Muhammad Sadiq, injured Taimoor for causing injuries through butts of firearm to her father and her mother and she also received firearm injury on her person due to firing of accused Dilawar. Undeniably there is concealment of facts on the part of both the parties regarding the receipt of injuries by the opposite parties. In the report of the complainant Muhammad Sadiq, there is no mention of the fact as to how Mst Ambia sustained firearm injury whereas in the counter report of Mst. Ambia, it was not disclosed as to how the complainant of the instant case, Muhammad Sadiq and Taimoor were injured whereas Ahmad Akbar was murdered. In the instant case, the alleged occurrence took place in front of house of accused and the complainant Muhammad Sadiq

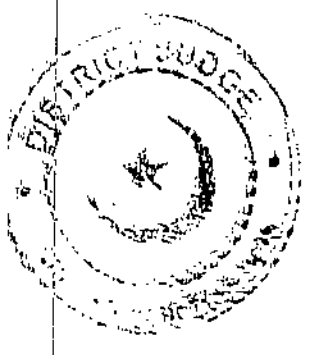
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and others failed to explain their presence near the place on occurrence despite the fact that the parties had strained relations. In the given scenario when both the parties did not advance true account of the alleged occurrence and neither party claimed exercise of right of self-defense, the court has to evaluate the evidence on record and infer as to who had caused aggression and dig out the true facts. Guidance in this regard is sought from the case law reported as 2011 SCMR 45 titled Mushtaq Hussain and another versus The State. Relevant Para 25 and 26 of the judgment is reproduced for ready reference;

"25. To rebut the argument that the defence did not plead right of self defence, we will refer to very recent judgment by this Court reported as Ghulam Farid v. The State, (2009 SCMR 929) where it was ruled that an accused if not raised the plea of self-defence during the trial either in his statement under section 342, Cr.P.C. or at the time of cross-examination of prosecution witnesses--Court, however, could infer the same from the evidence led during trial if it was tenable.

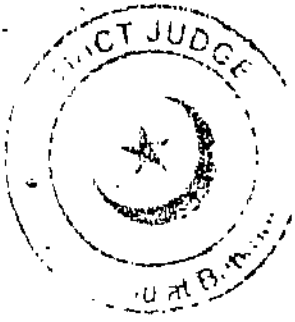


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26. Since benefit of cross-version was given to the accused of cross-case, same will be extendable to the present two appellants particularly when the two eye-witnesses were injured but have charged the acquitted co-accused as well for causing injuries to them. The net result of this detailed discussion is that since both the Courts below have held that there is a cross-case and no definite finding can be given about the aggression made by the present appellants, they were entitled to benefit of doubt.



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18. It was alleged by the complainant in the FIR that the accused were armed with pistols and Kalashnikovs however during spot inspection, only 06 empties of 7.62 bore were secured from places of accused and as per FSL report, Ex-PW-12/07, the said empties were fired from different weapons. The said report does not indicate as to how many firearms were used for firing the said empties marked as C1 to C6. As per the prosecution case, two accused were carrying Kalashnikovs at the time of alleged occurrence as was specified in the site plan however none of prosecution witnesses did specify the kind of weapon carried by each

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accused. The FSL report would have lent independent corroboration to the case of prosecution if it was opined that the said 06 empties were fired from two different weapons. Admittedly no empty of pistol was secured during spot inspection. The complainant did not specify the kind of weapons which the accused were carrying individually at the time of alleged occurrence. In the FIR, it was not alleged that the accused facing trial Rehmat Hussain was armed with Kalashnikov at the time of alleged occurrence and in the site plan it was recorded that the accused facing trial Rahmat Hussain was armed with Kalashnikov. As per the prosecution case, one 30 bore pistol was recovered vide recovery memo, Ex-PW-4/1 however it may not be inferred from the said recovery that it was used in the commission of offence as no empty was secured from the spot. The said pistol was examined through Fazal Subhan armorer who appeared as PW-10 and verified his report, Ex-PW-10/1 which shows that he examined pistol sealed in parcel No. 01 whereas it was sealed in parcel No. 06 as per contents of the recovery memo, Ex-PW-04/1. It may not be concluded from the said report of the armorer that the crime pistol was produced before him sealed in parcel No. 06 and he examined the same. The true details of the alleged occurrence were not

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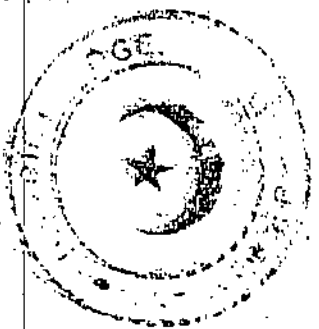
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reported in the report of the instant case and concealment was made regarding the actual events.

19. The dead body of the deceased Ahmad s/o Mir Akbar was examined by PW-02, Dr. Yaseen Muhammad on 25-03-2020 at 05:00 PM and he observed a single firearm entry wound with no exit on his person. He stated that he conducted autopsy on the dead body of deceased and opined that the deceased died due to injury to lungs, heart, major blood vessels of thorax due to firearm. The time between injury and death was given to be immediate whereas time between death and PM was opined to be 01 to 03 hours. Dr. Yaseen Muhammad also examined injured Taimoor on the same day and found head injury, lacerated wound on the left side forehead just on the eyebrow and bone was exposed. The nature of injury was opined to be Shajah Mudihah. He also examined complainant Muhammad Sadiqin injured condition and found lacerated wound on left side of the skull and nature of wound was described to be Shajah Khafifa. The medical evidence also established the violent death of the deceased Ahmad Akbar and injuries to the injured through blunt means, however, the medical evidence per se does not disclose the identity of the culprits and it is merely supportive in nature and helps court in evaluating other evidence on record in true perspective.

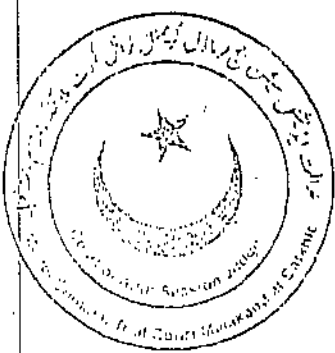
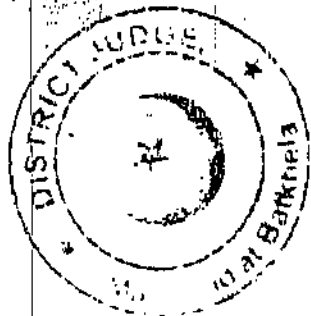


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20. The complainant alleged that the motive for the occurrence was dispute inter se the parties over landed property however the details of the motive were not divulged. It was not disclosed by the complainant as to why he and PW Taimoor were spared and the deceased Ahmad Akbar was done to death despite the fact that motive was not directly related to him. Motive in a criminal case has always been considered to be a double edged weapon which may cut either way. On account of motive, an offence may be committed but at the same time false implication may be made on account of motive. It is for this reason that the courts always call for independent corroboration in cases involving previous conviction which entails capital punishment. No doubt the absence or the failure to prove motive per se is no ground for discarding the evidence of prosecution and it is a driving force which prompts an accused to commit the offence, however where prosecution alleged specific motive for the commission of the offence, it was duty bound to prove the same.

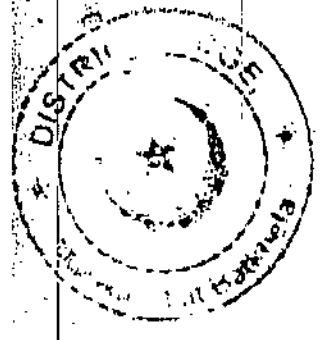
21. The accused facing trial Rahmat Hussain and Zahoor Hussain remained in hiding after the commission of offence till arrest of Rehmat Hussain on 16-06-2020 and arrest of accused Zahoor Hussain on 08-04-2020. Abscondence solely per-se may not be considered ground for the conviction of

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the accused facing trial and it is circumstance which may be considered with other evidence and facts of the case for basing conviction and awarding sentence. Moreover, innocent people do abscond in cases on account of lack of confidence on the investigating agencies or to face the ordeal of protracted, criminal trial. The abscondence of the accused may be equally consistent with the guilt or innocence of the accused which is to be determined keeping in view the overall facts of the case.

22. It is the prime duty of prosecution to prove its case through independent, trustworthy and confidence inspiring evidence but in the instant case the prosecution has failed to discharge its onus against the accused facing trial beyond any shadow of doubt and a single dent in the prosecution case is sufficient for extending benefit of doubt to the accused facing trial. The accused is not required to bring on record a number of contradictions and dents in the prosecution case and a single reasonable doubt regarding involvement of the accused facing trial may be considered and made basis for the acquittal of accused facing trial.

23. Consequently, by extending the benefit of doubt to accused facing trial, 1. Rehmat Hussain, 2. Manzoor Hussain, 3. Zahoor Hussain and 4. Munawar Khan are acquitted of the charges leveled against them in this case.



[Handwritten signature]

09-06-22

(RASHID ULLAH KUNDI)
Additional District & Sessions
Judge / Model Criminal Trial
Court Batkhela

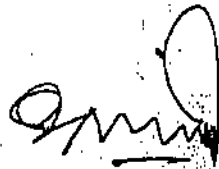
CERTIFIED TO BE TRUE COPY
SECTIONS DIVISION

Accused Rehmat Hussain is in custody; he be released ³¹⁻
forthwith if not required in custody in any other case where
as the accused Manzoor Hussain, Zahoor Hussain and
Munawar Khan are on bail; their bail bonds stand cancelled
and sureties are absolved of the liabilities of bail bonds.

24. Case property be kept intact till the expiry of period of
appeal/ revision if preferred, then till the decision of the fate
of the said appeal/revision.

25. File be consigned to the record room after completion
and compilation.

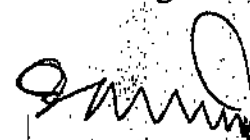
Announced.
09.06.2022


09-06-22

(Rashid Ullah Kundi)
Additional Sessions Judge/MCTC,
Malakand at Batkhela
(RASHID ULLAH KUNDI)
Additional District & Sessions
Judge / Model Criminal Trial
Court Malakand at Batkhela

CERTIFICATE.

Certified that this judgment consists of Twenty-six(26)
pages. Each page has been dictated, checked and signed by
me after necessary corrections.


(Rashid Ullah Kundi)
Additional Sessions Judge/MCTC,
Malakand at Batkhela
(RASHID ULLAH KUNDI)
Additional District & Sessions
Judge / Model Criminal Trial
Court Malakand at Batkhela

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Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. 6744-52 /EF

Date: 24/06/2021

ORDER


This order will dispose of the departmental proceedings against LHC Rehamat Hussain No. 5865, of District Police Swat now on deputation to Elite Force Khyber Pakhtunkhwa.

He was charged in case FIR No. 110, dated 25.03.2020 U/S 302/324/337/337A/34 PPC & 15AA Police Station Dargai district Malakand and also remained absent from lawful duty without any leave or prior permission w.e. from 25.03.2020 to 18.04.2020 (Total 24 days). In this regard he was suspended and Charge Sheet alongwith Summary of Allegations were issued to him and the then SP Elite Force Mardan was appointed as enquiry officer. The Enquiry Officer in his findings recommended to keep his enquiry pending till the decision of the court. However, in the light of DIG Inter Accountability Branch CPO Peshawar vide Letter No. 1519-21/CPO/IAB, dated 22.04.2021 and In this office letetr No. 3881-83/E,F dated 28.04.2021 to decide the pending departmental enquiry cases. Hence, Acting SP Elite Force Mardan conducted re-enquiry in the matter and reported that the said Constable was present in village at the time of occurnace and statement of Investigation Officer and case misal, was perused wherein the deliquent Constable was found guilty in the case. His bail has also been rejected by the Peshawar High Court, Mingora Bench (DAR-UL-QAZA), Swat and sent to Jail. Therefore, the Enquiry Officer has recommended that he may be awarded major punishment. Similarly a Final Show Cause Notice was issued to him by this office vide No. 5260/EF dated 27.05.2021, which was delivered to him through Reader A/SP Elite Mardan and received byself on 12.12.2019 but his reply was not recived in the stepulated period.

Therefore, I, Muhmmad Hussain, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view the above facts, circumstances and recommendations of the enquiry officer, impose major penalty of **DISMISSAL** from service upon the LHC Rehamat Hussain No.5865 under Police Rules 1975 (amended 2014).

However, his absence period i.e 24 days is treated as leave without pay.

Order announced!



(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar.

Copy of the above is forwarded to the:-

1. District Police Officer, Swat for information.
2. Superintendent of Police, Elite Force HQs: Peshawar.
3. Acting Superintendent of Police, Elite Force Mardan Region.
4. Sudt: Accounts, Elite Force Khyber Pakhtunkhwa Peshawar.
5. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
6. I/C Kot/OASI/SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
7. EMC, Elite Force Khyber Pakhtunkhwa Peshawar.

*Reader to deputy one fe
provide me copy to*

at said fe


05/07/2021

دستورالعمل...

جان کلام

5457
22-6

مجلس شورای اسلامی (LHC) ...
خودت ...
بجای ...

302/324/36

سائل 24 نوم گویے ...

BRA کیلئے درخواست کی ...

24 نوم گویا ...

کوئی ...

... اور اپنے ...

EC

... کلمہ ...

Handwritten signature

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5865 ...

9576 ...

8475097

بخدمت جناب ڈپٹی کمانڈنٹ صاحب

درخواست، بمزاد (سروس) نوکری بحالی

جناب عالی!

گزارش ہے کہ سائل ایلٹ فورس میں محثیت LHC ڈیوٹی ایمانداری اور خوش اسلوبی کیساتھ سرانجام دے رہا تھا جبکہ سائل کو اپنے گھر میں سائل سے چچا زاد بھائی نے ایک عدد FIR علت نمبر 110 مورخہ 25/3/2020 جرم دفعہ 302-324/34 پی پی سی تھانہ درگئی میں جھوٹ پرینی دعویداری کی تھی جسکی وجہ سے سائل 24 یوم ڈیوٹی سے غیر حاضر رہا اور سائل نے 18-4-2020 کو برخلاف BBA، FIR کیلئے درخواست کی جو کہ 16-6-2020 کو خارج ہوئی اور سائل کو 24 یوم غیر حاضر رہنے 24-6-2021 کو بحوالہ آرڈر نمبر 6744-52/EE نوکری سے برخاست کیا گیا سائل نے عدالت ADJ ماڈل کورٹ بٹ خیلہ میں مقدمہ نمبر 75/7 رجوعہ 28/10/2020 فیصلہ 9/6/2022 دائر کیا جس میں عدالت نے من سائل کو بے گناہ ہونے پر باعزت بری کیا سائل بہت ہی غریب اور گھر کا واحد سربراہ اور اپنے گھر کیلئے نوکری کر کے رزق حلال کماتا ہے۔

لہذا بذریعہ درخواست آپ صاحبان سے گزارش ہے کہ سائل کو دوبارہ نوکری پر بحال کرانے کا حکم صادر فرما کر مشکور فرمائیں سائل تاحیات دعا گو رہے گا۔

جناب عالی

حکم عدالت لف ہمراہ درخواست ہے

21-6-2022

العبد دستخط انگریزی

رحمت حسین ولد منور خان بلٹ نمبر 5865/LHC

0333-9516204

موبائل نمبر

0334-8475097

Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar


No. 7284-88 /EF

Dated: 13/07/2022

ORDER

This order will dispose off an appeal preferred by Ex-FC Rehmat Hussain No. 5865 of this unit against his major punishment of dismissal from service awarded to him by the Deputy Commandant Elite Force vide order No. 6744-54/EF, dated 24.06.2021 his case was sent to AIG/Legal CPO for legal opinion and he opined that the delinquent official did not preferred departmental appeal.

Hence, after perusal his appeal is hereby filed on the grounds of time limitation i.e. badly time barred.


(ASHRAF MOIMAND)PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

Copy to the:-

- 1. SP, Elite Force, HQrs: Peshawar. 90 Pshw.
- 2. OASI/SRC/EDAC, Elite Force Peshawar.
- 3. Ex-FC Rehmat Hussain No. 5865 through Reader SP/HQrs: Peshawar

25

بیت جناب السنٹر منبر آف پولیس فیبر چتر خواہ لیٹاؤٹ

Office of the ^{Shawar} درخواست منبر اہل عالی سرور

By: No. 9

Dated: A/

بیت عالی

گزارش کی جاتی ہے کہ سائل ایلٹ فورس میں بلور L.H.C

ڈیوٹی ایمان داری و خوش اسلوبی کے ساتھ سرانجام دے رہا تھا۔

سائل کو اپنے تریلو سائل کی وجہ سے چھازا رہائشوں نے ایسا عدد FIR

علت منبر 110 بحروفہ 25/03/22 جبراً دفعہ 34 PPC, 302, 324, 302, 324, 302, 324

سائل کے خلاف جھوٹی دعویداری کی تھی جسکی وجہ سے سائل ڈیوٹی سے "4" لوہم

غیر حاضر رہا سائل نے BBA کیلئے درخواست کی 20-06-16 درخواست خارج ہوئی

درخواست کو جواب آدرد منبری 52/EF-6744 No. کو محاربہ ڈیپٹیمانٹ ایلٹ فورس

صاحب نے نوٹری سے درخواست کیا گیا سائل جیل بند میں تقریباً دو سال بند باصلاح تھا

سائل کے مقدمہ 75/7 رجوعہ 20-10-28 نو شروع ہوا اور فیصلہ 22-06-9 کو عدالت ہیزا

نے سائل کی بے گناہی ثابت ہونے کے بعد باہر تبری کر دیا

اہل بیت ہی غریب اور گھوکاوا اور سربراہ سے اور انب والیرین اہل میاں کیلئے نوٹری کر کے زرقت

سائل کھاتا ہے

بیکہ درخواست آپ صاحبان سے التماس ہے کہ سائل کو دوبارہ نوٹری پر بحال کرنے کے احکامات

سائل اپنے تاحیات دعا اور سے گا *P. Prasad*
 الحمد

بیت حسین بلور منور زکنا (بیلٹ منبر 5865/EF)
 Date: 20/7/2022

موبائل منبر 0333-9516264 - 0334-8475097



O. No. 989
Date 9-2-23
Commandant Elite Force

"H" - 36-
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Rehmat Hussain No. 5865. The petitioner was dismissed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar vide order No. 6744-52/EF, dated 24.06.2021 on the allegations that he was charged in case FI No. 110, dated 25.03.2020 u/s 302/324/337/337A/34 PPC & 15AA Police Station Dargai and also remained absent from duty w.e.f 25.03.2020 to 18.04.2020 for 24-days. His appeal was rejected by Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar vide order Endst: No. 7084-88/EF, dated 13.07.2022.

Meeting of Appellate Board was held on 19.01.2023 wherein petitioner was heard in person. Petitioner contended that he was acquitted on benefit of doubt by the court of Addl: Sessions Judge/MCTC Malakand vide judgment dated 09.06.2022.

Perusal of enquiry papers reveals that the allegations leveled against the petitioner has been proved. During hearing, petitioner failed to advance any plausible explanation in rebuttal of the charge. The acquittal from the court does not absolve the petitioner from the liability. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-
SABIR AHMED, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 290-96 /23, dated Peshawar, the 9-2 /2023.

Copy of the above is forwarded to the:

1. Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar. One Service Roll, Fauji Missal (with previous enquiry files) and one enquiry file (90 pages) of the named Ex-FC received vide your office Memo: No. EF/SRC/S.Record:8096, dated 11.08.2022 is returned herewith for your office record.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(DR. ZAHID ULLAH) PSP
AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

10/2/2023

In copy
S. J. 2023

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 20 23

Rehmat Hussain

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 20 / 2 / 2022


CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)

UMAR FAROOQ MOHMAND


WALEED ADNAN

&


MUHAMMAD AYUB
ADVOCATES

OFFICE:
Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)